

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

|  |   |
|--|---|
| 1. Agency/Subagency originating request  | 2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span><br>a. _____ - _____   |
| 3. Type of information collection ( <i>check one</i> )<br>a. <input type="checkbox"/> New Collection<br>b. <input type="checkbox"/> Revision of a currently approved collection<br>c. <input type="checkbox"/> Extension of a currently approved collection<br>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired<br>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired<br>f. <input type="checkbox"/> Existing collection in use without an OMB control number<br>For b-f, note Item A2 of Supporting Statement instructions | 4. Type of review requested ( <i>check one</i> )<br>a. <input type="checkbox"/> Regular submission<br>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____<br>c. <input type="checkbox"/> Delegated  |
|  | 5. Small entities<br>Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No  |
|  | 6. Requested expiration date<br>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____   |
| 7. Title   |   |
| 8. Agency form number(s) ( <i>if applicable</i> )  |   |
| 9. Keywords  |   |
| 10. Abstract   |   |
| 11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> )<br>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms<br>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government<br>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government   | 12. Obligation to respond ( <i>check one</i> )<br>a. <input type="checkbox"/> Voluntary<br>b. <input type="checkbox"/> Required to obtain or retain benefits<br>c. <input type="checkbox"/> Mandatory   |
| 13. Annual recordkeeping and reporting burden<br>a. Number of respondents _____<br>b. Total annual responses _____<br>1. Percentage of these responses collected electronically _____ %<br>c. Total annual hours requested _____<br>d. Current OMB inventory _____<br>e. Difference _____<br>f. Explanation of difference<br>1. Program change _____<br>2. Adjustment _____  | 14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> )<br>a. Total annualized capital/startup costs _____<br>b. Total annual costs (O&M) _____<br>c. Total annualized cost requested _____<br>d. Current OMB inventory _____<br>e. Difference _____<br>f. Explanation of difference<br>1. Program change _____<br>2. Adjustment _____  |
| 15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> )<br>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management<br>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research<br>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance<br>d. <input type="checkbox"/> Audit  | 16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> )<br>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure<br>c. <input type="checkbox"/> Reporting<br>1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly<br>4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually<br>7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____ |
| 17. Statistical methods<br>Does this information collection employ statistical methods<br><input type="checkbox"/> Yes <input type="checkbox"/> No   | 18. Agency Contact (person who can best answer questions regarding the content of this submission)<br><br>Name: _____<br>Phone: _____   |

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

|  |      |
|--|------|
| Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice) |      |
| Signature  | Date |
| Signature of NOAA Clearance Officer  |      |
| Signature  | Date |

**SUPPORTING STATEMENT  
REQUIREMENTS FOR  
GULF OF ALASKA COMMUNITY QUOTA SHARE PROGRAM**

**OMB NO. 0648-0272**

**INTRODUCTION**

This collection incorporates modifications to the Individual Fishery Quota (IFQ) Program in the Gulf of Alaska (GOA) that add a new class of persons, Community Quota Entities (CQEs) that are allowed to hold quota share (QS) and transfer individual quotas derived from that QS to eligible community residents.

The IFQ Program was implemented under the Magnuson Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*; (Magnuson-Stevens Act), the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) and are implemented by regulations at 50 CFR part 679. The domestic fishery for Pacific halibut off Alaska is managed by the International Pacific Halibut Commission as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act). The IFQ Program provides harvesters in the fishery with individual quotas that allow them to avoid economically inefficient fishing practices.

The IFQ Program provides management measures designed to respond to chronic concerns about effectively managing the halibut and sablefish commercial fixed-gear fisheries while maintaining an efficient use of the resource. However, since the implementation of the IFQ Program, a substantial decline has occurred in the amount of QS and the number of QS holders in most of the GOA communities since initial issuance of QS. This trend may have an effect on employment and reduce the diversity of fisheries to which fishermen in rural communities have access. The Council recommended the adoption of these measures in order to address existing concerns about the distribution of QS in remote, rural communities in the GOA.

**A. JUSTIFICATION**

The following 18 responses provide justification for the revisions to the collection-of-information requirements for the IFQ program:

**1. Explain why you need to conduct the information collection.**

The purpose of this revision is to explicitly allow a new group of non-profit entities to hold QS in the IFQ Program on behalf of residents of specific, rural communities that are located adjacent to the coast of the GOA. This change would allow a non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community

and to lease the resulting IFQ to fishermen who are residents of the eligible community. This change is intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities.

Communities eligible to participate in this program would need to meet all of the following criteria:

- (a) Have a population of less than 1,500 persons based on the 2000 United States Census;
- (b) Have direct saltwater access;
- (c) Lack direct road access to communities with a population greater than 1,500 persons;
- (d) Have historic participation in the halibut and sablefish fisheries; and
- (e) Be specifically designated on a list adopted by the Council.

The National Marine Fisheries Service (NMFS) requires information to establish the eligibility of the CQEs to hold QS, monitor the participation of the eligible communities in this program, gather information on the distribution of QS and IFQ among these communities, and receive an annual report from each CQE. This information will be analyzed to determine whether the goals envisioned by the Council are met.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

Implementing this program would require that NMFS:

- (1) Review applications of eligibility for non-profit entities seeking to be qualified as a CQE for a particular community.
- (2) Certify eligible CQEs.
- (3) Issue QS to CQE.
- (4) Review an annual report detailing the use of QS and IFQ by the CQE and community residents. These reviews ensure that the CQEs are adequately representing the communities and that the program is meeting the goals established by the Council. If a CQE fails to provide a completed annual report to NMFS for each community that it represents, then that CQE would be deemed ineligible to use the IFQ resulting from that QS on behalf of that community until a complete annual report is received. Before becoming a Final Agency Action, any such determination by NMFS may be appealed through the administrative appeals process described under the IFQ Program (§ 679.43).

**a. Application to Become a CQE**

This application procedure is required for each non-profit seeking to become a CQE representing a specific community. The Application to Become a CQE would be submitted prior to the transfer of any QS to a CQE representing any community. This application is due only once, unless a particular eligible community withdraws support from a specific CQE. For purposes of

estimating burden hours, this situation is unlikely to arise, and the application process would not need to be resubmitted more than once every five years.

An Application to Become a CQE must contain the following information. This information is used both to evaluate the ability of the specific CQE to represent an Eligible GOA community and to augment fisheries management efforts.

#### **Application to Become a CQE**

##### **Block A–Nonprofit applicant information**

Name of nonprofit organization  
Taxpayer ID  
NMFS Person ID  
Permanent business mailing address  
Name of contact person  
Business telephone and FAX numbers  
Community represented by nonprofit organization  
Name of contact for community governing body  
Indicate YES or NO whether a U.S. citizen. If NO, you are not eligible to receive QS/IFQ by transfer

##### **Block B–Notary certification**

Enter printed name, signature, and date of application in the presence of a Notary Public  
Notary Public signature, date when commission expires, and affix Notary Stamp

##### **Block C–Required documentation**

The non-profit organization applying to become a Community Quota Entity must provide all of the documentation listed in this section. This information is used both to evaluate the ability of the non-profit applicant to represent an Eligible GOA community and to ensure the non-profit has the support of the community's government body.

Articles of Incorporation for the non-profit in the State of Alaska.

A statement designating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS.

The bylaws of the non-profit

A list of key personnel of the managing organization including but not limited to: the board of directors, officers, representatives, and any managers

Description of the organizational management structure of the non-profit including resumes of management personnel, including the name, address, fax number, telephone number, e-mail address, and any other contact information for the non-profit entity.

Description of how the non-profit is qualified to manage QS on behalf of the eligible community(ies) it is designated to represent, and a demonstration that the non-profit has the management, technical expertise, and ability to manage QS and IFQ.

The names, business addresses, and additional contact information of the managing personnel for the non-profit entity.

A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community represented by that CQE, including:

Procedures used to solicit requests from residents to lease IFQ.

Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria.

A statement of support from the governing body of the eligible community as that governing body is defined in Table 21 to 50 CFR 679. That statement of support is:

A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;

A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior; or

A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated under State of Alaska statute, and is not represented by a tribal government authority recognized by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

- Have articles of incorporation for that non-profit community association, homeowner association, community council, or other non-profit entity;
- A demonstrated history of participation by that non-profit community association in revenue sharing agreements with the State of Alaska Department of Community and Economic Development.

|   |                  |
|---|------------------|
| <b>Application to Become a CQE, Respondent</b>                        |                  |
| Estimated number of respondents                                       | 42               |
| Number of responses per respondent                                    | 1                |
| <b>Total annual responses</b> (42/5 yr)                               | 8.4              |
| Time requirement for each application                                 | 200 hr           |
| <b>Total Time burden</b> (8.4 x 200 = 1,680)                          | <b>1,680 hr</b>  |
| Personnel Cost per hour, in dollars                                   | \$150/hr         |
| <b>Total personnel cost</b> to all applicants (1,680 x \$150)         | <b>\$252,000</b> |
| Cost of application copies (50 pages x \$0.05 x 2)                    | \$5              |
| Submit by mail 1 copy to NMFS, Alaska Region (8.4 x \$1.48 = \$12.43) | \$12             |
| <b>Total miscellaneous cost</b>                                       | <b>\$17</b>      |

|  |                |
|--|----------------|
| <b>Application to Become a CQE, Federal Government</b> |                |
| Total annual responses                                 | 8.4            |
| Review or oversight per year                           | 20 hr          |
| <b>Total time burden</b>                               | <b>168 hr</b>  |
| Personnel cost   | \$25/hr        |
| <b>Total personnel cost</b>                            | <b>\$4,200</b> |

#### **b. Application for Transfer of QS /IFQ (includes sweep-up)**

This transfer application previously was approved under OMB NO. 0648-0272 for use to document QS transfers and IFQ leases. The form allows NMFS to monitor the transfer of QS, both purchased and sold. This application is revised to include transfers and leases by a CQE.

After a CQE has received notification of approval of eligibility to receive QS/IFQ for a community, the CQE may request QS by transfer. Upon approval of QS transfer, the CQE would hold the QS and lease the resulting annual IFQ to individual community residents. Unless otherwise specified, the restrictions that apply to any current QS holder would apply to a CQE. CQEs, however, would be subject to additional regulatory requirements beyond those applying to existing QS holders.

In order to ensure that the CQEs meet the objectives of the Community Quota Share Program, questions are added to the application requesting: reasons for the sale of QS by the CQE; the amount of QS leased by each of the CQE; and the residency of those individuals receiving IFQ leases from CQEs. Since all QS purchased must be leased to eligible community residents,

NMFS estimates that there will be an equal number of IFQ transfers and leases annually or two transfers per year per community.

Block L is added to ensure that approval from the governing body is obtained. As part of the transfer application, the governing body of the eligible community must provide an authorization for the transfer. This authorization is intended to ensure that the community is fully aware of the transfer because certain restrictions apply to future transfers if the transfer of QS is for a reason other than to sustain, improve, or expand the program (i.e., the CQE would be prohibited from holding QS on behalf of that community for a period of three years and the CQE must divest itself of all QS held on behalf of that community). The burden associated with the review of the transfer application is addressed in section 2.d. below.

#### **Application for Transfer of QS and IFQ (rev)**

If the person applying to transfer or receive QS or IFQ is a CQE, the following determinations are required for each eligible community represented by that CQE:

- (i) An individual applying to receive IFQ from QS held by a CQE is an eligible community resident of the eligible community in whose name the CQE is holding QS;
- (ii) The CQE applying to receive or transfer QS, has submitted a complete annual report(s);
- (iii) The CQE applying to transfer QS has provided information on the reasons for the transfer ;
- (iv) The CQE applying to receive QS is eligible to hold QS on behalf of the eligible community in the halibut or sablefish regulatory area designated for that eligible community in Table 21 to 50 CFR part 679;
- (v) The governing body of the eligible community has authorized the transfer of QS; and
- (vi) The CQE applying to receive QS has received notification of approval of eligibility to receive QS/IFQ for that community

#### **Block A -- Transfer Eligibility Certificate (TEC)**

Indicate YES or NO whether transferee (buyer) holds a TEC

Indicate YES or NO whether the Buyer or Transferor (Seller) is approved as an CQE (new)

If YES and this is a permanent transfer of QS to or from the CQE, an authorized representative of the community represented by this CQE must sign this form in Block L. (new)

#### **Block B — Attachment Checklist**

Use this list to ensure application is complete.

#### **Block C — Transferor (Seller) Information**

Name

NMFS Person ID number (rev)

Date of birth

SSN or Tax ID number

Permanent business mailing address

Temporary business mailing address, if applicable (rev)

Home and business telephone numbers

FAX number

#### **Block D — Transferee (Buyer) Information**

Name

NMFS Person ID number (rev)

Date of birth

SSN or Tax ID number

Permanent business mailing address

Temporary business mailing address, if applicable (rev)  
Home and business telephone numbers  
FAX number

Block E — Questions for Transferee (Buyer)

Indicate YES or NO whether QS is to be included in a sweep-up  
If YES, list the identifier on the QS certificate into which this new piece should be combined (rev)  
If this is a transfer of Catcher vessel CDQ compensation QS and the vessel category has never been declared, indicate the one QS vessel category requesting

Block F – Identification of QS and IFQ to be Transferred

Complete Block F if QS and IFQ are to be transferred together or to transfer QS only.  
Whether Halibut or sablefish  
IFQ Regulatory area  
Vessel category (Does not apply if transferred to a CQE (rev)  
Number of QS units to be transferred  
Seller IFQ permit number  
Start and end serial numbers of QS to be transferred  
Eligible Community for which QS are designated (new)  
Indicate YES or NO whether all remaining pounds for the current fishing year should be transferred (rev)  
If NO, number of pounds to be transferred

Block G — Transfer of IFQ only

Complete Block G if requesting transfer IFQ only (applies only to Category A and surviving Spouse IFQ)  
Whether Halibut or sablefish  
IFQ regulatory area  
Number of units to be transferred  
Start and end serial numbers of IFQ to be transferred (rev)  
Actual number of IFQ pounds being transferred  
Seller IFQ permit number  
Eligible Community for which QS are designated (NEW)  
Fishing year

Block H — Required Supplemental Information (completed by seller) (rev)

Indicate YES or NO whether a broker is being used for this transaction  
If YES, how much is paid in brokerage fees or % of total price  
Total amount being paid for the QS/IFQ in this transaction, including all fees  
Price per unit of QS (rev)  
Price per pound of IFQ  
Indicate YES or NO if the transferor is a CQE (NEW)  
If YES, indicate the reasons for the transfer (check all that apply and provide a brief explanation on a separate sheet)  
Reasons for transferring the QS/IFQ (check all that apply)

Block I — Required supplemental information (completed by buyer) (rev)

Will QS/IFQ being purchased have a lien attached  
~~If yes, name of lien holder~~ (Removed)  
What is the primary source of financing for this transfer (check one)  
How was QS/IFQ located (check all that apply)  
What is Buyer's relationship to the QS/IFQ Holder (check all that apply) (Rev)  
Indicate YES or NO whether an agreement exists to return of QS or IFQ to Seller or any other person, or a condition placed on resale  
If YES, explain

Block J — Transferor (Seller) Signature Block

This application for transfer must be completed, signed by the buyer and seller, and notarized.

Printed name and signature of Transferor (Seller) or Authorized Agent If completed by an agent, attach authorization. (Rev)

Date of Signature

Notary Public signature and stamp or seal

Date notary commission expires

Block K — Transferee (Buyer) Signature Block (Rev)

This application for transfer must be completed, signed by the buyer and seller, and notarized.

Printed name and signature of Transferee or Authorized Agent. If completed by an agent, attach authorization. (Rev)

Date of signature

Notary Public signature and stamp or seal

Date notary commission expires

Block L – Authorized Community Representative (new)

If this permanent QS transfer involves a Community Quota Entity (CQE), this application must be signed by an authorized representative of the community represented by the CQE. This block is necessary to ensure that the community approves a specific action by CQE.

Printed name and signature of Authorized Community Representative.

Date of signature

Printed name of community

Notary Public signature and stamp or seal

Date notary commission expires

| <b>Application for Transfer of QS/IFQ, Respondent*</b>       |                 |
|--|-----------------|
| Estimated number of respondents                              | 1,042           |
| Number of responses per respondent                           | 1.04            |
| <b>Total annual responses</b> (1.04 x 1,042 = 1,083.68)      | <b>1,084</b>    |
| 1 response x 1,000 = 1,000                                   |                 |
| 2 response x 42 = 84   |                 |
| Time requirement for each application                        | 2 hr            |
| <b>Total Time burden</b> (1,084 x 2)                         | <b>2,168</b>    |
| Personnel Cost per hour, in dollars                          | \$25/hr         |
| <b>Total personnel cost</b> to all applicants (2,168 x \$25) | <b>\$54,200</b> |
| Notary (\$5 x 1,084)   | \$5,420         |
| Photocopy (4 ea x 0.10 x 1,084=433.6)                        | \$434           |
| Submit by mail (0.37 ea x 1,084=401.08)                      | \$401           |
| <b>Total miscellaneous cost</b>                              | <b>\$6,255</b>  |

\*Applications for Transfers are currently cleared under 0648-0272. This table shows the overall burden for a revised requirement. Answers 12, 13, and 15 will identify only the burden and costs over and above those already approved as part of 0648-0272.

|   |                 |
|---|-----------------|
| <b>Application for Transfer of QS/IFQ, Federal Government</b> |                 |
| <b>Total annual responses</b> (42 x 2 = 84 + 1,000)           | 1,084           |
| Time requirement for each application                         | 2 hr            |
| <b>Total time burden</b>                                      | <b>2,168 hr</b> |
| Personnel cost  | \$25/hr         |
| <b>Total personnel cost</b>                                   | <b>\$54,200</b> |

### c. CQE Annual Report

Each CQE must submit an annual report by January 31 summarizing halibut and sablefish IFQ activities for the prior fishing year, for each community represented by the CQE to NMFS and to the governing body. This report will provide NMFS and the community with a means of assessing the efficacy of the program on an annual basis and during the 5 year review scheduled for this program. Much of the information on this report will be available for participants through a review of the CQE's records and should not require extensive new data collection or gathering. A complete annual report must contain the following information:

#### CQE Annual Report (NEW)

- Identification of the eligible community, or communities, being represented by the CQE (optional);
- Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year (optional);
- Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year (optional)
- Total amount of halibut and sablefish IFQ leased from the CQE (optional);
- Name, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ (optional).
- Name, ADF&G vessel registration number, USCG documentation number, length overall, and homeport of each vessel from which the IFQ leased from community owned QS was fished.
- Name and business addresses of those individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE.
- Detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;
- Description of efforts made to employ crew members who are eligible community residents of the eligible community aboard vessels on which IFQ derived from QS held by a CQE is being fished;
- Description of the process used to solicit lease applications from eligible community residents of the eligible community on whose behalf the CQE is holding QS;
- Names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE
- Any changes in the bylaws of the CQE, board of directors, or other key management personnel
- Copies of minutes and other relevant decision making documents from CQE board meetings
- The number of vessels that fished for IFQ derived from QS held by a CQE (optional)

|  |                 |
|--|-----------------|
| <b>CQE Final Report, Respondent</b>        |                 |
| Estimated number of respondents            | 42              |
| Number of responses per respondent         | 1               |
| <b>Total annual responses</b>              | <b>42</b>       |
| Time requirement for each report           | 40 hr           |
| <b>Total Time burden</b> (42 x 40)         | <b>1,680 hr</b> |
| Personnel Cost per hour, in dollars        | \$50/hr         |
| <b>Total personnel cost</b> (1,680 x \$50) | <b>\$84,000</b> |
| Cost to submit by mail (\$5 x 42 x 2)      | \$420           |
| <b>Total miscellaneous cost</b>            | <b>\$420</b>    |

|   |                 |
|---|-----------------|
| <b>CQE Final Report, Federal Government</b> |                 |
| <b>Total annual responses</b>               | 42              |
| Time requirement for each report            | 20 hr           |
| <b>Total Time burden</b>                    | <b>840 hr</b>   |
| Personnel Cost per hour, in dollars         | \$25/hr         |
| <b>Total personnel cost</b>                 | <b>\$21,000</b> |

#### d. Approval of Transfer from governing body

As part of the transfer application, the governing body of the eligible community must provide an authorization for the transfer (see description for Block L in section 2.b. above). This authorization is intended to ensure that the community is fully aware of the transfer because certain restrictions apply to future transfers if the transfer of QS is for a reason other than to sustain, improve, or expand the program (i.e., the CQE would be prohibited from holding QS on behalf of that community for a period of three years and the CQE must divest itself of all QS held on behalf of that community).

|   |                |
|---|----------------|
| <b>Approval of Transfer from governing body</b> |                |
| Estimated number of respondents (42)            | 42             |
| Number of responses per respondent              | 2              |
| <b>Total annual responses</b>                   | <b>84</b>      |
| Time requirement for each report                | 0.5 hr         |
| <b>Total Time burden</b> (84 x 0.5)             | <b>42 hrs</b>  |
| Personnel Cost per hour, in dollars             | \$25/hr        |
| <b>Total personnel cost</b> (42 x \$25)         | <b>\$1,050</b> |
| Cost to submit by mail (\$0.37 x 84)            | \$31.08        |
| <b>Total miscellaneous cost</b>                 | <b>\$31</b>    |

|   |              |
|---|--------------|
| <b>Approval of Transfer from governing body, Federal Government</b> |              |
| <b>Total annual responses</b>                                       | <b>84</b>    |
| Time requirement for each report                                    | 0.25 hr      |
| <b>Total Time burden</b>  | <b>21</b>    |
| Personnel Cost per hour, in dollars                                 | \$25/hr      |
| <b>Total personnel cost</b>   | <b>\$525</b> |

**e. Community petition to form governing body.**

For those eligible communities that are not incorporated in the State of Alaska, are not represented by a tribal government authority recognized by the Secretary of the Interior, and do not have a non-profit community association, homeowner association, community council, or other non-profit entity within that community with an established relationship with the Alaska Department of Community and Economic Development for purposes of revenue sharing agreements, then NMFS will not consider any statement from a non-profit entity representing that community until that community:

- Is incorporated in the State of Alaska;
- Establishes a tribal government authority recognized by the Secretary of the Interior; or
- Establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community.

**Community petition to form governing body.**

If a community establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community, the community must submit to NMFS the following:

Petitions from residents affirming that the non-profit community association, homeowner association, community council, or other non-profit entity within that community represents the residents within that community; and

Comments from the State of Alaska Department of Community and Economic Development on the articles of incorporation for that non-profit entity and the ability of that non-profit entity to adequately represent the interests of that community.

|  |              |
|--|--------------|
| <b>Community petition to form governing body, Respondent</b> |              |
| Estimated number of respondents                              | 2            |
| Number of responses per respondent                           | 1            |
| <b>Total annual responses</b>                                | <b>2</b>     |
| Time requirement for each report                             | 10 hr        |
| <b>Total Time burden</b> (2 x 10)                            | <b>20 hr</b> |
| Personnel Cost per hour, in dollars                          | \$25/hr      |
| <b>Total personnel cost</b> (20 x \$25)                      | <b>\$500</b> |
| Cost to submit by mail (\$5 x 2)                             | \$10         |
| <b>Total miscellaneous cost</b>                              | <b>\$10</b>  |

|  |             |
|--|-------------|
| <b>Community need to form governing body, Federal Government</b> |             |
| <b>Total annual responses</b>                                    | <b>2</b>    |
| Time requirement for each report                                 | 0.5 hr      |
| <b>Total Time burden</b>   | <b>1 hr</b> |
| Personnel Cost per hour, in dollars                              | \$25/hr     |
| <b>Total personnel cost</b>                                      | <b>\$25</b> |

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the following paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this

Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The application for transfer of QS/IFQ and the Application to Become a CQE may be downloaded from our web page at [www.fakr.noaa.gov](http://www.fakr.noaa.gov) and submitted by mail.

No forms are available for the CQE annual report or approval of transfer from governing body..

**4. Describe efforts to identify duplication.**

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

These requirements do not have a significant impact on small entities.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The intent of this action is to expand the opportunity for fishermen in remote fishing communities to harvest commercial halibut and sablefish. Without the specified reporting scheme described in this Supporting Statement, the program would be severely jeopardized

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

There are no inconsistencies.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The NMFS Alaska Region will submit a proposed rule for publication in the Federal Register simultaneously with this request.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payment or gift will be provided under this program.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The information collected is confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*); and also under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics. These procedures have been implemented under NMFS Operations Manual entitled "Data Security Handbook for the Northwest-Alaska Region, National Marine Fisheries Service".

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

The Debt Collection Improvement Act, in Section 7701 of title 31, United States Code requires collection of the taxpayer identification (Social Security number or Tax Identification number) from each person doing business with a federal agency. This information is used for purposes of collecting and reporting any delinquent amounts arising out of such person's relationship with the government. This information is used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits issued under 50 CFR Part 679.

**12. Provide an estimate in hours of the burden of the collection of information.**

The following estimates are only those above the current-approval level. The total responses are 220. The total burden hours are 3,590 hr. The total personnel cost is \$342,275.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

Miscellaneous costs are estimated to be \$543.

**14. Provide estimates of annualized cost to the Federal government.**

The renewal of this collection-of-information will not require additional personnel or resources from NMFS, beyond those already required of the IFQ Program and the CDQ Program to enter

and extract data necessary for the establishment, monitoring, and enforcing of each of the programs. Total burden is estimated to be 1,198 hr. Total personnel costs are estimated to be \$29,950.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

This is a program change to add a new class of persons under a community QS plan to the IFQ Program. An Application to Become a CQE, an Approval of Transfer from Governing Body, and an annual CQE report are required from these new participants as well as the potential of 2 additional communities to file a Petition to Form a Governing Body form. An existing transfer form is revised to incorporate these new participants when transfer is necessary.

| Name of form  | Description of change/adjustment |  |
|---|----------------------------------|--|
| Appln Transfer QS/IFQ                               | REVISED                          | Add 84 responses                                   |
|   |                                  | Add 168 hr burden                                  |
|   |                                  | Personnel wage from \$20 to \$25/hr<br>Add \$4,725 |
|   |                                  | Add \$65 misc                                      |
| Annual CQE Report                                   | NEW                              | Add 42 responses                                   |
|   |                                  | Add 1,680 hr burden                                |
|   |                                  | Add \$84,000 personnel                             |
|   |                                  | Add \$420 misc                                     |
| Application to Become a CQE                         | NEW                              | Add 8.4 responses                                  |
|   |                                  | Add 1,680 hr burden                                |
|   |                                  | Add \$252,000 personnel                            |
|   |                                  | Add \$17 misc                                      |
| Community Governing Body<br>Approval of QS Transfer | NEW                              | Add 84 responses                                   |
|   |                                  | Add 42 hr burden                                   |
|   |                                  | Add \$1,050 personnel                              |
|   |                                  | Add \$31 misc                                      |
| Community Petition to Form<br>Governing Body        | NEW                              | Add 2 responses                                    |
|   |                                  | Add 20 hr burden                                   |
|   |                                  | Add \$500 personnel                                |

| Name of form | Description of change/adjustment |               |
|--------------|----------------------------------|---------------|
|              |                                  | Add \$10 misc |

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

The information collected will not be published and no statistical sampling of the information is planned.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the transfer form. No forms exist for the application or final report.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

No exceptions to the certification statement are requested.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.



## APPLICATION FOR TRANSFER OF QS/IFQ

U.S. Dept. of Commerce/NOAA  
National Marine Fisheries Service  
Restricted Access Management  
P.O. Box 21668  
Juneau, AK 99802-1668



**NOTE: A separate application must be submitted for each Quota Share (QS) or IFQ Transfer.  
If you want to do a self sweep-up, please use the self sweep-up form.**

### BLOCK A – TRANSFER ELIGIBILITY CERTIFICATE

|  |                              |                             |
|--|------------------------------|-----------------------------|
| Does the Transferee (Buyer) hold a Transfer Eligibility Certificate (TEC)?   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Is the Transferee (Buyer) or Transferor (Seller) approved as a Community Quota Entity (CQE)?   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| If yes, and this is a permanent transfer of QS to or from the CQE, an authorized representative of the community represented by this CQE must sign this form in Block L. |                              |                             |

### BLOCK B – ATTACHMENT CHECKLIST

**Use this list to ensure your application is complete. Incomplete applications will not be processed.**

**NOTE: FAXED APPLICATIONS ARE NOT ACCEPTABLE. PLEASE SUBMIT ORIGINALS.**

|  |                          |
|--|--------------------------|
| Completed, signed, and notarized application .....   | <input type="checkbox"/> |
| Copy of signed & notarized sales or gift agreement .....   | <input type="checkbox"/> |
| QS/IFQ Transfer: <b>Seller's original</b> QS Certificate .....                                       | <input type="checkbox"/> |
| Documentation for Authorized Agent (if applicable) .....   | <input type="checkbox"/> |
| Sweep Up Transfer: <b>Buyer's and seller's original</b> QS Certificate .....                         | <input type="checkbox"/> |
| Transfer of IFQ (Category "A" Shares, Surviving Spouse Lease): Copy of permit or QS Certificate..... | <input type="checkbox"/> |

### BLOCK C - TRANSFEROR (SELLER) INFORMATION

|  |                        |   |  |
|--|------------------------|---|--|
| 1. Name:                               |                        | 2. NMFS Person ID:  |  |
| 3. Date of Birth:                      |                        | 4. SSN or Tax ID*:  |  |
| 5. Permanent Business Mailing Address: |                        | 6. Temporary Business Mailing Address (see instructions): |  |
| 7. Home Telephone:                     | 8. Business Telephone: | 9. Fax:   |  |

\*SSN or Tax ID

The Debt Collection Improvement Act, in Section 7701 of title 31, United States Code requires collection of the taxpayer identification (Social Security number or Tax Identification number) from each person doing business with a federal agency. This information is used for purposes of collecting and reporting any delinquent amounts arising out of such person's relationship with the government. This information is also used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits issued under 50 CFR Part 679.

**BLOCK D -- TRANSFEREE (BUYER) INFORMATION**

|  |                        |   |  |
|--|------------------------|---|--|
| 1. Name:                               |                        | 2. NMFS Person ID:  |  |
| 3. Date of Birth:                      |                        | 4. SSN or Tax ID*:  |  |
| 5. Permanent Business Mailing Address: |                        | 6. Temporary Business Mailing Address (see instructions): |  |
| 7. Home Telephone:                     | 8. Business Telephone: | 9. Fax:   |  |

**BLOCK E -- QUESTIONS FOR TRANSFEREE (BUYER)**

1. Do you request that this QS be included in a **sweep up**, if possible?      Yes [ ☐ ]      No [ ☐ ]

2. If **yes**, list the identifier on the QS Certificate into which this new piece should be combined  
(Example H-2C-B-B-123,456,789 through H-2C-B-B-123,458,789)

\_\_\_\_\_

**Reminder:**

For Sweep Up, attach **both the buyer's and seller's original QS Certificates to this application.**

3. If this is a transfer of Catcher Vessel CDQ Compensation QS and the vessel category has never been declared, check the one Catcher Vessel Category in which you would like to have your QS issued.

Length Overall:              0' to 35              or              36' to 60'              or              greater than 60'

Vessel Category:              **D** [ ☐ ]              **C** [ ☐ ]              **B** [ ☐ ]

**BLOCK F - IDENTIFICATION OF QS AND IFQ TO BE TRANSFERRED****Complete Block F if QS and IFQ are to be transferred together or if you want to transfer QS only.**

|  |  |   |  |
|--|--|---|--|
| 1. Halibut [ ] or Sablefish [ ]  |  | 2. IFQ Regulatory Area:                   |  |
| 3. Vessel Category<br>(Does not apply if transferred to a community quota entity)  | 4. Number of QS Units to be Transferred: | 5. Transferor (Seller) IFQ Permit Number: |  |
| 6. Start and End serial numbers of QS to be transferred. (Serial Numbers are shown on the QS Certificate):   |  |   |  |
| 7. Eligible Community (see instructions) for which QS are designated   |  |   |  |
| 8. Do you want all remaining pounds for the current fishing year transferred?    Yes [ ]    No [ ]<br>If <b>NO</b> , specify the number of pounds to be transferred: _____<br><b>-Pounds transferred will include any overage and is non-negotiable.</b><br><b>-Pounds transferred will include any underage UNLESS OTHERWISE INSTRUCTED</b> |  |   |  |

**BLOCK G - TRANSFER OF IFQ ONLY****Complete Block G if you want to Transfer IFQ Only  
(Applies only to Category "A" & Surviving Spouse IFQ)**

|  |   |                                       |
|--|---|---------------------------------------|
| 1. Halibut [ ] or Sablefish [ ]  | 2. IFQ Regulatory Area:                   | 3. Number of Units to be transferred: |
| 4. Start and end serial numbers of IFQ to be transferred (Serial Numbers are shown on the QS Certificate): |   |                                       |
| 5. Actual Number of IFQ Pounds:  | 6. Transferor (Seller) IFQ Permit Number: |                                       |
| 7. Eligible Community (see instructions) for which QS are designated                                       | 8. Fishing Year: 20_____                  |                                       |

**BLOCK H - REQUIRED SUPPLEMENTAL INFORMATION***(Completed by Transferor)***Your application will not be processed unless you provide the following information.**

1. Is there a broker being used for this transaction?    ☐ Yes    ☐ No

If **yes**, how much is being paid in brokerage fees? \$ \_\_\_\_\_ or \_\_\_\_\_ % of total price.

2. What is the **total amount** being paid for the QS/IFQ in this transaction, including all fees? \_\_\_\_\_

3. Give both the price per unit of QS and the price per pound of IFQ.

\$ \_\_\_\_\_ /Unit of QS                      \$ \_\_\_\_\_ /Pound of IFQ

4. Is the transferor a Community Quota Entity?        ☐ Yes        ☐ No

If **yes**, please indicate the reasons for the transfer (check all that apply and provide a brief explanation on a separate sheet)

Management and Administration        ☐                      Fund Expanded participation in IFQ Fisheries by residents                      ☐

Fund additional QS purchase                ☐                      Dissolution of Community Quota Entity                      ☐

Other                      ☐ (Specify)

5. What are your reasons for transferring the QS/IFQ? (check all that apply)

Retirement from fisheries        ☐        Shares too small to fish        ☐        Consolidation of shares        ☐

Pursue non-fishing activities        ☐        Trading shares                      ☐        Other (explain)                      ☐

Health problems                      ☐        Enter other fisheries                      ☐

***BLOCK I - REQUIRED SUPPLEMENTAL INFORMATION***  
***(Completed by Transferee)***

1. Will the QS/IFQ being purchased have a lien attached?     ☐ Yes     ☐ No

2. What is the primary source of financing for this transfer (check one)?

|  |  |   |
|--|--|---|
| Personal resources (cash) <input type="checkbox"/> | AK Com. Fish & Ag. Bank <input type="checkbox"/>   | Received as a gift <input type="checkbox"/> |
| Private bank/credit union <input type="checkbox"/> | Transferor/seller <input type="checkbox"/>         | NMFS loan program <input type="checkbox"/>  |
| Alaska Dept. Of Commerce <input type="checkbox"/>  | Processor/fishing company <input type="checkbox"/> | Other (explain) <input type="checkbox"/>    |

3. How was the QS/IFQ located (check all that apply)?

|  |  |  |
|--|--|--|
| Relative <input type="checkbox"/>        | Advertisement/public notice <input type="checkbox"/> | Broker <input type="checkbox"/>          |
| Personal friend <input type="checkbox"/> | Casual acquaintance <input type="checkbox"/>         | Other (explain) <input type="checkbox"/> |

4. What is the Buyer's relationship to the QS/IFQ Holder (check all that apply)?

|  |   |  |
|--|---|--|
| No relationship <input type="checkbox"/> | Business partner <input type="checkbox"/> | Other (explain) <input type="checkbox"/> |
|--|---|--|

5. Is there an agreement to return the QS or IFQ to the Transferor (seller), or any other person, or a condition placed on resale?     ☐ Yes     ☐ No

If yes, please explain:

**NOTE: This application for transfer must be completed, signed, and notarized by both parties. Additionally, applications for permanent QS transfers involving a Community Quota Entity (CQE) must be co-signed by an authorized representative of the community represented by the CQE. Failure to have signatures properly notarized will result in delays in the processing of this application.**

| <b><i>BLOCK J - TRANSFEROR (SELLER)</i></b>  |                                     |
|--|-------------------------------------|
| <p>Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.</p> <p>If this is a transfer involving a Community Quota Entity, an authorized representative of the community represented by the CQE in this transfer must sign Block L.</p> |                                     |
| 1. Signature of Transferor (Seller) or Authorized Agent:   | 2. Date:                            |
| 3. Printed Name Transferor (Seller) or Authorized Agent <b>Note:</b> If this is completed by an agent, attach authorization:   |                                     |
| 4. Notary Public Signature: <b>ATTEST</b>  | 5. Affix Notary Stamp or Seal Here: |
| 6. Commission Expires:   |                                     |

| <b><i>BLOCK K - TRANSFEREE (BUYER)</i></b>  |                                     |
|---|-------------------------------------|
| <p>Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.</p> <p>NOTE: If this is a transfer of IFQ derived from QS held by a community quota entity, I further attest that I am an eligible community resident, as defined in 50 CFR 679.2, of the community listed in Block G.7.</p> <p>If this is a transfer involving a Community Quota Entity, an authorized representative of the community represented by the CQE in this transfer must sign Block L.</p> |                                     |
| 1. Signature Transferee (Buyer) or Authorized Agent:  | 2. Date:                            |
| 3. Printed Name Transferee (Buyer) or Authorized Agent <b>Note:</b> If this is completed by an agent, attach authorization:   |                                     |
| 4. Notary Public Signature: <b>ATTEST</b>   | 5. Affix Notary Stamp or Seal Here: |
| 5. Commission Expires:  |                                     |

**BLOCK L - AUTHORIZED COMMUNITY REPRESENTATIVE**

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete. The Community Quota Entity listed in Block C or Block D has the approval of our community to engage in this permanent QS transfer for the reasons listed on this application.

1. Signature Authorized Community Representative:

2. Date:

3. Printed Name of Authorized Community Representative

4. Printed Name of Community

5. Notary Public Signature:

**ATTEST**

6. Affix Notary Stamp or Seal Here:

7. Commission Expires:

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**PUBLIC REPORTING BURDEN STATEMENT**

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

**ADDITIONAL INFORMATION**

Before completing this form please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.); 3) Responses to this information request are confidential under section 104(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.). They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics. These procedures have been implemented under the NMFS Operations Manual entitled, "Data Security Handbook for the Northwest-Alaska Region National Marine Fisheries Service."

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**INSTRUCTIONS:  
Application for Transfer of QS/IFQ**

**Note: A Separate Application Must be submitted for each Quota Share (QS) or IFQ Transfer. If you want to apply for a “self sweep-up,” please use the *Self Sweep-Up Form*.**

The original application must be submitted — an application sent by facsimile will **not** be processed.

**Please allow at least ten working days for your application to be processed.** Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

If you need assistance in completing this application or  
need additional information,

Call Restricted Access Management (RAM) at

**(800) 304-4846 (#2) or (907) 586-7202 (#2).**

When completed, mail the application to

**NMFS Alaska Region  
Restricted Access Management (RAM)  
P.O. Box 21668  
Juneau, AK 99802-1668**

**Note: It is important that all blocks are completed and all necessary documents are attached. Failure to answer any of the questions, provide attachments, or to have signatures notarized could result in delays in the processing of your application.**

***BLOCK A – TRANSFER ELIGIBILITY CERTIFICATE***

1. Does the Transferee (Buyer) hold a Transfer Eligibility Certificate (TEC)? Indicate YES or NO.

To be eligible to receive QS/IFQ by transfer, you must:

- o Have received QS/IFQ as an Initial Issuee, or
- o Hold a TEC.

If you answered NO, contact RAM for instructions on eligibility procedures and a TEC application form.

2. Is the Transferee (Buyer) or Transferor (Seller) approved as a Community Quota Entity (CQE)? Indicate YES or NO.

If YES, and this is a permanent QS transfer, an authorized representative of the community

represented by the CQE in this transaction must sign Block L.

A community quota entity (for purposes of the IFQ program) means a non-profit organization which did not exist prior to April 10, 2002, and which represents at least one eligible community that is listed in 50 CFR Part 679 and has been approved by the Regional Administrator to obtain by transfer, and hold QS and to use on behalf of an eligible community.

Eligible community (for purposes of the IFQ program) means a community listed in 50 CFR Part 679 and that: (i) is a municipality or census designated place as defined in the 2000 United States Census located on the Gulf of Alaska coast of the North Pacific Ocean; (ii) has a population of not less than one and not more than 1,500 persons based on the 2000 United States Census; (iii) has had a resident of that community with at least one commercial landing of halibut or sablefish during the period from 1980 to 2000, as documented by the State of Alaska Commercial Fisheries Entry Commission; and (iv) is not accessible by road to a community larger than 1,500 persons based on the 2000 United States Census.

### ***BLOCK B – ATTACHMENT CHECKLIST***

Use this list as a guide to ensure you have included all the necessary items in the mailing of your application. This will ensure timely processing of your transfer application. If you have lost your original certificate, you will need to complete an Application for Replacement of Certificates, Cards, or Permits.

### ***BLOCK C - TRANSFEROR (SELLER) INFORMATION***

1. Name: Full name as it appears on QS Certificate and/or TEC.
2. NMFS Person ID: As found on QS Certificate or TEC.
3. Date of Birth: Birth date of the person.
4. SSN or Tax ID:  
The Debt Collection Improvement Act, in Section 7701 of title 31, United States Code requires collection of the taxpayer identification (Social Security number or Tax Identification number) from each person doing business with a federal agency. This information is used for purposes of collecting and reporting any delinquent amounts arising out of such person's relationship with the government. This information is also used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits issued under 50 CFR Part 679.
5. Permanent Business Mailing Address: Include street or P.O. Box number, city, state, and zip code.
6. Temporary Business Mailing Address: Address you want the transfer documentation sent if some-where other than to the permanent address. Include street or P.O. Box number, city, state, and zip code.
- 7-9. Home and Business Telephone Numbers and Fax Numbers: Include the area codes.

***BLOCK D - TRANSFEREE (BUYER) INFORMATION***

1. Name: Full name as it appears on QS Certificate and/or Transfer Eligibility Certificate (TEC).
2. NMFS Person ID: As found on QS Certificate or TEC.
3. Date of Birth: Birth date of the person.
4. SSN or Tax ID:  
The Debt Collection Improvement Act, in Section 7701 of title 31, United States Code requires collection of the taxpayer identification (Social Security number or Tax Identification number) from each person doing business with a federal agency. This information is used for purposes of collecting and reporting any delinquent amounts arising out of such person's relationship with the government. This information is also used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits issued under 50 CFR Part 679.
5. Permanent Business Mailing Address: Include street or P.O. Box number, city, state, and zip code.
6. Temporary Business Mailing Address (if applicable):  
Address you want the transfer documentation sent if somewhere other than to the permanent address. Include street or P.O. Box number, city, state, and zip code.
- 7-9. Home and Business Telephone Numbers and Fax Numbers: Include the area codes.

***BLOCK E - QUESTIONS FOR TRANSFEREE (BUYER)***

1. Indicate if you wish to combine "sweep up" the transferred block together with a block you already hold.

Blocked QS's may be swept up into one block if the total amount of QS being combined is less than or equal to the following amounts of QS units per area.

| Halibut     |              | Sablefish   |              |
|-------------|--------------|-------------|--------------|
| <u>Area</u> | <u>Units</u> | <u>Area</u> | <u>Units</u> |
| 2C          | 19,992       | SE          | 33,270       |
| 3A          | 27,912       | WY          | 43,390       |
| 3B          | 22,947       | CG          | 46,055       |
| 4A          | 22,947       | WG          | 48,410       |
| 4B          | 15,087       | AI          | 99,210       |
| 4C          | 30,930       | BS          | 91,275       |
| 4D          | 26,082       |             |              |

2. If yes, list the identifier on the QS certificate into which this new piece should be combined
3. If this is a transfer of Catcher Vessel CDQ compensation QS, there is a **one time** opportunity at the time of the first transfer to **permanently** designate the catcher vessel category of the QS being transferred.

***BLOCK F - IDENTIFICATION OF QS AND IFQ TO BE TRANSFERRED***

**Complete Block F only if you are transferring QS and the IFQ resulting from these shares. Persons wishing to transfer IFQ only (Category “A” shares, lease), should fill out Block G.**

The information requested in lines 1-6 can be found on your QS Certificate

1. Species: halibut or sablefish.
2. IFQ Regulatory Area.
3. Vessel Category (Does not apply if transferred to a CQE).
4. Number of QS units to be transferred.
5. Transferor (seller) IFQ permit number.
6. Starting and ending serial number of QS to be transferred.
7. Indicate name of Eligible Community for which QS are designated from table below:

| Eligible Communities<br>and<br>Halibut and Sablefish QS and IFQ Regulatory Use Areas |   |    |    |
|--|---|----|----|
| Eligible Community   | May use halibut QS only<br>in halibut<br>IFQ regulatory areas |    |    |
| Akhiok   |   | 3A | 3B |
| Angoon   | 2C  | 3A |    |
| Chenega Bay  |   | 3A | 3B |
| Chignik  |   | 3A | 3B |
| Chignik Lagoon   |   | 3A | 3B |
| Chignik Lake   |   | 3A | 3B |
| Coffman Cove   | 2C  | 3A |    |
| Craig  | 2C  | 3A |    |
| Edna Bay   | 2C  | 3A |    |
| Elfin Cove   | 2C  | 3A |    |

| Eligible Communities<br>and<br>Halibut and Sablefish QS and IFQ Regulatory Use Areas |   |    |    |
|--|---|----|----|
| Eligible Community   | May use halibut QS only<br>in halibut<br>IFQ regulatory areas |    |    |
| Gustavus   | 2C  | 3A |    |
| Halibut Cove   |   | 3A | 3B |
| Hollis   | 2C  | 3A |    |
| Hoonah   | 2C  | 3A |    |
| Hydaburg   | 2C  | 3A |    |
| Ivanof Bay   |   | 3A | 3B |
| Kake   | 2C  | 3A |    |
| Karluk   |   | 3A | 3B |
| Kassan   | 2C  | 3A |    |
| King Cove  |   | 3A | 3B |
| Klawock  | 2C  | 3A |    |
| Larsen Bay   |   | 3A | 3B |
| Metlakatla   | 2C  | 3A |    |
| Meyers Chuck   | 2C  | 3A |    |
| Nanwalek   |   | 3A | 3B |
| Old Harbor   |   | 3A | 3B |
| Ouzinkie   |   | 3A | 3B |
| Pelican  | 2C  | 3A |    |
| Perryville   |   | 3A | 3B |
| Point Baker  | 2C  | 3A |    |
| Port Alexander   | 2C  | 3A |    |
| Port Graham  |   | 3A | 3B |
| Port Lyons   |   | 3A | 3B |
| Port Protection  | 2C  | 3A |    |
| Sand Point   |   | 3A | 3B |
| Seldovia   |   | 3A | 3B |
| Tatitlek   |   | 3A | 3B |
| Tenakee Springs  | 2C  | 3A |    |

| Eligible Communities<br>and<br>Halibut and Sablefish QS and IFQ Regulatory Use Areas |   |    |    |
|--|---|----|----|
| Eligible Community   | May use halibut QS only<br>in halibut<br>IFQ regulatory areas |    |    |
| Thorne Bay   | 2C  | 3A |    |
| Tyonek   |   | 3A | 3B |
| Whale Pass   | 2C  | 3A |    |
| Yakutat  |   | 3A | 3B |

8. Pounds transferred will include any overage and is non-negotiable. Pounds transferred will include any underage unless otherwise instructed. Indicate YES or NO whether you want all remaining pounds for the current fishing year transferred.

If NO, specify the number of pounds to be transferred.

***BLOCK G - TRANSFER OF IFQ ONLY***

**Complete Block G if IFQ pounds only are being transferred (leased) and the QS will remain with the current holder of those shares.** Applies only to Category “A” or those shares received as a Surviving Spouse under the provisions in 50 CFR 679.

1. Species: halibut or sablefish.
2. IFQ Regulatory Area.
3. Number of units to be transferred.
4. Start and end serial number of IFQ to be transferred. (Serial Numbers are shown on the QS Certificate):
5. Actual number of pounds being transferred.
6. Transferor's (seller's) IFQ permit number.
7. Eligible community for which QS are designated
8. The fishing year is the current year or year in which IFQ should be transferred. A transfer of IFQ *only* cannot be completed until the IFQ has been awarded for that year.

***BLOCK H - REQUIRED SUPPLEMENTAL INFORMATION (Completed by Transferor)***

1. Is there a broker being used for this transaction? Indicate YES or NO.

If **No**, go to question #2.

If **Yes**, how much is being paid in brokerage fees? Put the total price paid to the broker or calculate how much was paid as a percentage of the total sale price. (The percentage can be derived by dividing the brokerage fee by the total price paid for the QS/IFQ, then multiply the result by 100.)

2. What is the **total amount** being paid for the QS/IFQ in this transaction, including all fees? The total amount entered should include **any and all** monies collected on behalf of the seller for the shares involved, including any fees that will be paid out to other parties for the expenses of brokering or assisting in the sale of these shares.
3. Give both the price per unit of QS and the price per pound of IFQ. The price per pound of IFQ must be entered if IFQs **only** are being transferred "leased." (To derive the number of dollars per unit of QS or pound of IFQ, divide the total amount paid, including fees, by the number of QS units or the number of IFQ pounds being transferred.)
4. Indicate YES or NO whether the transferor is a CQE  
  
If YES, indicate the reasons for the transfer (check all that apply and provide a brief explanation on a separate sheet)
5. What are your reasons for transferring the QS/IFQ (check all that apply)

***BLOCK I - REQUIRED SUPPLEMENTAL INFORMATION (Completed by Transferee)***

1. Will the QS/IFQ being purchased have a lien attached? Indicate YES or NO. List the name of entity or person(s) who will hold the lien. This name will appear on the QS Certificate as "Lien Held by."
2. What is the primary source of financing for this transfer (check one)?
3. How was the QS/IFQ located (check all that apply)?
4. What is the Buyer's relationship to the QS/IFQ Holder (check all that apply)?
5. Indicate YES or NO whether an agreement exists to return the QS or IFQ to the Transferor (seller), or any other person, or a condition placed on resale? If YES, please explain

**NOTE**

**Regulations governing the IFQ program do not permit transfer of QS subject to any conditions of repossession or resale to the transferor except by court order, operation of law, or security agreement.**

***BLOCKS J & K – CERTIFICATION OF TRANSFEROR, TRANSFEREE, AND NOTARY PUBLIC***

**NOTE**

**This application for transfer must be completed, signed, and notarized by both parties. Additionally, applications for permanent QS transfers involving a Community Quota Entity (CQE) must be co-signed by an authorized representative of the community represented by the CQE. Failure to have signatures properly notarized will result in delays in the processing of this application.**

1. Sign and print your name and date the application in the presence of a Notary Public. Application forms submitted to RAM must bear the **original signatures** of the parties — **RAM will not process faxed applications.**

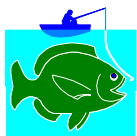
Note: If the Transferee in Block K is receiving an IFQ only transfer from a CQE then he/she must be attest that he/she is an “eligible community resident” of the community listed in Block G.7. An “eligible community resident is defined in 50 CFR Part 679.2 as follows:

- (1) is a citizen of the United States;
  - (2) has maintained a domicile in a rural community listed in Table 21 of this part for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country; and
  - (3) is an IFQ crew member.
2. Representatives signing for a Transferor or Transferee must submit proof of authorization to submit this application on their behalf.
  3. A Notary Public must Attest and affix Notary Stamp. The Notary Public cannot be the person(s) submitting this application.

***BLOCK L - CERTIFICATION OF AUTHORIZED COMMUNITY REPRESENTATIVE***

**Applications for permanent QS transfers involving a Community Quota Entity (CQE) must be co-signed by an authorized representative of the community represented by the CQE.**

1. - 3. Sign and print your name and date the application in the presence of a Notary Public. Application forms submitted to RAM must bear the **original signatures** of the parties — **RAM will not process faxed applications.**
4. Print name of community represented by the person signing in #1 and the community represented by the CQE (this must be the same community).
5. - 7. A Notary Public must Attest and affix Notary Stamp. The Notary Public cannot be the person(s) submitting this application.



**APPLICATION TO BECOME  
A COMMUNITY QUOTA ENTITY**

U.S. Dept. of Commerce/NOAA  
National Marine Fisheries Service  
Restricted Access Management  
P.O. Box 21668  
Juneau, AK 99802-1668  
(800) 304-4846 toll free / 586-7202 in Juneau (907) 586-7354 fax



***BLOCK A - NON- PROFIT APPLICANT INFORMATION (TYPE OR PRINT)***

1. Name of Non-Profit Organization:

2. Taxpayer ID:

3. NMFS Person ID:

4. Permanent Business Mailing Address:

5. Name of Contact Person:

6. Business Phone:

7. Fax:

8. Community Represented by Non-Profit:

9. Name of Contact for Community Governing Body

10. Are you a U.S. Citizen or U.S. Corporation, Partnership, or Association of Business Entity? Yes [ ] No [ ]

***IF NO, STOP HERE, you are not eligible to receive QS/IFQ by transfer.***

***BLOCK B - NOTARY CERTIFICATION***

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.

1. Signature of Applicant (or Authorized Agent):

2. Date:

3. Printed Name of Applicant (or Authorized Agent):

4. Notary Public Signature:

**ATTEST**

6. Affix Notary Stamp or Seal Here:

5. Commission Expires:

## ***BLOCK C – REQUIRED DOCUMENTATION***

The following documentation must be provided with this application. Failure to provide any of the required documentation will result in a denial of this application. This information is used both to evaluate the ability of the non-profit applicant to represent an Eligible GOA community and to ensure the non-profit has the support of the community's government body.

1. Articles of Incorporation for the non-profit in the State of Alaska.
2. A statement designating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS.
3. The bylaws of the non-profit
4. A list of key personnel of the managing organization including but not limited to: the board of directors, officers, representatives, and any managers
5. Description of the organizational management structure of the non-profit including resumes of management personnel, including the name, address, fax number, telephone, email, and any other contact information for the non-profit entity.
6. Description of how the non-profit is qualified to manage QS on behalf of the eligible community(ies) it is designated to represent, and a demonstration that the non-profit has the management, technical expertise, and ability to manage QS and IFQ.
6. The names, business addresses, and additional contact information of the managing personnel for the non-profit entity.
7. A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community represented by that CQE, including:
  - A. Procedures used to solicit requests from residents to lease IFQ.
  - B. Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria.
8. A statement of support from the governing body of the eligible community as that governing body is defined in Table 21 to 50 CFR 679. That statement of support is:
  - A. A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;
  - B. A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior; or
  - C. A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated under State of Alaska statute, and is not represented by a tribal government authority recognized by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

Have articles of incorporation for that non-profit community association, homeowner association, community council, or other non-profit entity;

A demonstrated history of participation by that non-profit community association in revenue sharing agreements with the State of Alaska Department of Community and Economic Development.

Submit the completed Application to Become a Community Quota Entity, including all required documentation, to:

NMFS/AKR/RAM  
P.O. Box 21668  
Juneau, Alaska 99802  
or via facsimile to (907) 586-7354

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### **PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 200 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

### **ADDITIONAL INFORMATION**

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics. These procedures have been implemented under the NMFS Operations Manual entitled, "Data Security Handbook for the Northwest-Alaska Region National Marine Fisheries Service."

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## INSTRUCTIONS FOR THE APPLICATION TO BECOME A COMMUNITY QUOTA ENTITY

A non-profit organization that wishes to represent an eligible GOA community in the acquisition and use of quota share and individual fishing quota must complete this application for approval. Only those non-profit organizations approved by NMFS will be eligible to purchase QS and/or transfer IFQ on behalf of an eligible GOA community.

Type or print legibly in ink and retain a copy of completed application for your records. **Please allow at least 10 working days for your application to be processed.** Items will be sent by first class mail, unless you provide alternate instructions *and* include a prepaid mailer with appropriate postage or corporate account number for express delivery.

Mail the completed application form to:

**NMFS Alaska Region  
Restricted Access Management  
P.O. Box 21668  
Juneau, AK 99802-1668**

If you need additional information, call Restricted Access Management (RAM) at **(800) 304-4846 (#2)** or **(907) 586-7202 (#2)**.

### ***BLOCK A - NON-PROFIT APPLICANT INFORMATION***

1. Name of Non-Profit Organization: Please provide the name of the non-profit entity seeking to become a Community Quota Entity.
2. Taxpayer ID: ***Privacy Act Statement***: The Debt Collection Improvement Act, in Section 7701 of title 31, United States Code requires collection of this information from each person doing business with a federal agency. This information is used for purposes of collecting and reporting any delinquent amounts arising out of such person's relationship with the government. This information is also used to verify the identity of the applicant(s) and to accurately retrieve confidential records related to federal commercial fishery permits issued under 50 CFR Part 679.
3. NMFS Person ID: NMFS will provide this number.
4. Permanent Business Mailing Address: Enter permanent mailing address, including street or P.O. Box, city, state, and zip code.
5. Name of Contact Person: Name of the contact person for the non-profit organization applying to become a Community Quota Entity.
- 6-7. Business Telephone and Facsimile (FAX) Numbers: Enter the numbers including the area codes.

8. Community Represented by Non-Profit: Enter the name of the eligible GOA community being represented by the non-profit.
9. Name of Contact for Community Governing Body: List the name of the contact person for the governing body of the community listed in box #8.
10. Are You a U.S. Citizen or a U.S. Corporation, Partnership, or Association of Business Entity? Indicate YES or NO. **If NO, Stop Here**, you are not eligible to receive QS/IFQ by transfer.

### ***BLOCK B - NOTARY CERTIFICATION***

- 1-3. Enter printed name, signature, and date of application in the presence of a Notary Public. As a result of this requirement, **we cannot process faxed applications**. Representatives acting on behalf of an applicant must supply proof of agent authorization to submit this application on the applicant's behalf.
- 4-6. A Notary Public must Attest (sign), indicate date when commission expires, and affix his/her Notary Stamp. The Notary Public cannot be completed by the person submitting this application.

### ***BLOCK C - REQUIRED DOCUMENTATION***

The non-profit organization applying to become a Community Quota Entity must provide all of the documentation listed in this section. Failure to provide any of the required documentation will result in a denial of this application. This information is used both to evaluate the ability of the non-profit applicant to represent an Eligible GOA community and to ensure the non-profit has the support of the community's government body.

1. Articles of Incorporation for the non-profit in the State of Alaska.
2. A statement designating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS.
3. The bylaws of the non-profit
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5. Description of the organizational management structure of the non-profit including resumes of management personnel, including the name, address, fax number, telephone number, e-mail address, and any other contact information for the non-profit entity.
6. Description of how the non-profit is qualified to manage QS on behalf of the eligible community(ies) it is designated to represent, and a demonstration that the non-profit has the management, technical expertise, and ability to manage QS and IFQ.
7. The names, business addresses, and additional contact information of the managing personnel for the non-profit entity.
8. A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community represented by that CQE, including:
  - A. Procedures used to solicit requests from residents to lease IFQ.
  - B. Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria.
9. A statement of support from the governing body of the eligible community as that governing body is defined in Table 21 to 50 CFR 679. That statement of support is:
  - A. A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;
  - B. A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior; or
  - C. A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated under State of Alaska

statute, and is not represented by a tribal government authority recognized by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

Have articles of incorporation for that non-profit community association, homeowner association, community council, or other non-profit entity;

A demonstrated history of participation by that non-profit community association in revenue sharing agreements with the State of Alaska Department of Community and Economic Development.

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#### **ADDITIONAL INFORMATION**

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics. These procedures have been implemented under the NMFS Operations Manual entitled, "Data Security Handbook for the Northwest-Alaska Region National Marine Fisheries Service."

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# **Magnuson-Stevens Fishery Conservation and Management Act**

## **Public Law 94-265**

As amended through October 11, 1996

### **SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS      16 U.S.C. 1853**

**95-354, 99-659, 101-627, 104-297**

**(a) REQUIRED PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

**97-453, 99-659, 101-627, 102-251, 104-297**

**(b) DISCRETIONARY PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]\* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]\*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

- (A) present participation in the fishery,
- (B) historical fishing practices in, and dependence on, the fishery,
- (C) the economics of the fishery,
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities, and
- (F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

**97-453, 104-297**

**(c) PROPOSED REGULATIONS.**--Proposed regulations which the Council deems necessary or appropriate for the purposes of--

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

Dated: October 7, 2003.

**Donald S. Welsh,**

*Regional Administrator, EPA Region III.*

[FR Doc. 03-26048 Filed 10-15-03; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 030922237-3237-01; I.D. 082503D]

RIN 0648-AQ98

#### Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Purchase

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** NMFS issues a proposed rule to implement Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), and an amendment to the Pacific halibut commercial fishery regulations for waters in and off of Alaska. Amendment 66 to the FMP and the regulatory amendment would modify the Individual Fishing Quota (IFQ) Program by revising the definition of an eligible quota share holder to allow eligible communities in the Gulf of Alaska (GOA) to establish non-profit entities to purchase and hold halibut and sablefish quota share (QS) for lease to, and use by, community residents as defined by specific elements of the proposed action. This action is intended to improve the effectiveness of the IFQ Program and is necessary to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ fisheries.

**DATES:** Comments on the proposed rule must be received on or before December 1, 2003.

**ADDRESSES:** Comments may be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall. Comments also may be delivered by hand to NMFS, Room 420, 709 West 9th Street, Juneau, AK 99801. Send comments on collection-of-information requirements to the same address and to

the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), via facsimile (202-395-7285; Attn: NOAA Desk Officer) or email at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov). Comments also may be sent via facsimile (fax) to 907-586-7557. Comments will not be accepted if submitted by email or the Internet. Copies of Amendment 66 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 66 may be obtained from the North Pacific Fishery Management Council at 605 West 4th, Suite 306, Anchorage, AK 99501-2252, Phone: (907) 271-2809.

#### FOR FURTHER INFORMATION CONTACT:

Glenn Merrill, 907-586-7228 or email at [glenn.merrill@noaa.gov](mailto:glenn.merrill@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The groundfish fisheries in the Exclusive Economic Zone of the GOA are managed under the FMP. The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act (Public Law 94-265, 16 U.S.C. 1801). The FMP was approved by the Secretary of Commerce and became effective in 1978. Fishing for Pacific halibut (*Hippoglossus stenolepis*) is managed by the International Pacific Halibut Commission (IPHC) and the Council under the Halibut Act. The IFQ Program, a limited access management system for the fixed gear Pacific halibut and sablefish (*Anoplopoma fimbria*) fisheries off Alaska, was recommended by the Council in 1992, approved by NMFS in January 1993, and initial implementing rules were published on November 9, 1993 (58 FR 59375). Fishing under the IFQ program began on March 15, 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding QS in specific management areas. The IFQ Program for the sablefish fishery is implemented by the FMP and Federal regulations at 50 CFR part 679 under authority of the Magnuson-Stevens Act. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of the Halibut Act.

The IFQ Program originally was designed to resolve conservation and management problems that are endemic to open access fisheries. The background issues leading to the Council's initial action recommending the adoption of IFQs are described in the preamble to the proposed rule

establishing the IFQ Program published December 3, 1992 (57 FR 57130).

A central concern of the Council in developing the IFQ Program was that QS, from which IFQ is derived, would become increasingly held by corporate entities instead of independent fishermen who typically own and operate their own vessels. To prevent this outcome, the Council designed the IFQ Program such that QS could, in most cases, be held only by individuals or natural persons, and not by corporate entities. The Council provided limited exemptions to this basic approach to accommodate existing corporate ownership of vessels at the time of implementation and to recognize the participation by corporately owned freezer vessels. However, the overall intent of the IFQ Program was for catcher vessel QS eventually to be held only by individual fishermen. The IFQ Program is designed to limit corporate holding of QS and increase holdings of QS by individual fishermen as corporate owners divest themselves of QS. The rationale for this owner-operator structure was that it would maintain a robust QS market and reasonable entry costs for new fishermen. This provision is implemented through the QS and IFQ transfer regulations at 50 CFR 679.41.

The purpose of this proposed rule is to revise existing IFQ Program regulations and policy to explicitly allow a new group of non-profit entities to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. This change would allow a non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community and to lease the resulting IFQ to fishermen who are residents of the eligible community. This change is intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities.

A Notice of Availability (NOA) of the FMP amendment was published on September 2, 2003 (68 FR 52173), with comments on the FMP amendment invited through November 3, 2003. Written comments may address the FMP amendment, the proposed rule, or both, but must be received by November 3, 2003, to be considered in the decision to approve or disapprove the FMP amendment.

Since initial issuance of QS, and as a result of voluntary transfers of QS, the amount of QS and the number of resident QS holders has substantially declined in most of the GOA communities that would be affected by

this action. This trend may have had an effect on employment and may have reduced the diversity of fisheries to which fishermen in rural communities have access.

The ability of fishermen in small rural communities to purchase QS or maintain existing QS may be limited by a variety of factors unique to those communities. In particular, many fishermen in small rural communities may be limited in their ability to obtain access to financing due to the remote nature of the communities and their dependence on a limited range of economic opportunities. Many small rural communities are isolated from other communities and this isolation limits access to a wider variety of markets for fishery product that are available to communities with better transportation infrastructure. In addition, fishermen in these rural communities tend to have smaller vessels and fishing operations relative to fishermen in larger ports. These fishermen may have received less QS during initial issuance and may have chosen to divest themselves of QS that was not economically viable. Although the specific causes for decreasing QS holdings in rural communities may vary, the net effect is overall lower participation by residents of these communities in the halibut and sablefish IFQ fisheries.

In June 2000, representatives of several GOA communities presented the Council with a proposal to allow communities to purchase QS. The Council approved several alternatives for analysis in June 2001, reviewed an initial analysis in December 2001, and took final action in April 2002. The Council formally adopted a problem statement in June 2001 for this proposed action that recognized the fact that a number of small coastal communities "are struggling to remain economically viable." The Council stated that "[a]llowing qualifying communities to purchase halibut and sablefish quota share for use by community residents will help minimize adverse economic impacts on these small, remote, coastal communities in Southeast and Southcentral Alaska, and help provide for the sustained participation of these communities in the halibut and sablefish IFQ fisheries."

The proposed action developed by the Council would address these concerns by modifying the IFQ Program to allow non-profit entities that represent small rural communities in the GOA with a historic participation in the halibut and sablefish fisheries to hold QS. The Council's recommendations also reflect the most recent amendments to the

Magnuson-Stevens Act, and IFQ policy recommendations by the National Research Council (NRC).

The 1996 amendments to the Magnuson-Stevens Act established a new national standard for fishery conservation and management (National Standard 8) that requires management programs to "take into the account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities" (16 U.S.C. 1851). The Halibut Act requires consideration of the effect of halibut allocations to fishing communities by reference to section 303(b)(6) of the Magnuson-Stevens Act. This reference requires, among other things, that the effects of halibut allocations be considered as is described under the directives of National Standard 8 of the Magnuson-Stevens Act.

The 1996 Magnuson-Stevens Act amendments also directed the NRC to submit a report to Congress on existing IFQ Programs and provide recommendations on the implementation of existing and future programs. The NRC published its report "Sharing the Fish: Toward a National Policy on Individual Fishing Quotas" in 1999. In this report, the NRC recommends that NMFS and the Regional Councils consider including fishing communities as stakeholders in fishery management programs. The NRC recommends that Regional Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. This action proposes to implement provisions that would address the NRC recommendations on the use of QS by communities.

The Council considered the range of comments from the public, NMFS, and the State of Alaska (State), and incorporated various suggestions in developing its proposed community QS policy. The basic provisions of this proposed policy are described as follows.

### **Community QS Provisions**

#### **1. Community Quota Entities**

Community quota entities (CQEs), incorporated under the laws of the State to represent eligible communities, would obtain QS by transfer and hold the QS and lease the resulting annual IFQ to individual community residents. Unless otherwise specified, the restrictions that apply to any current QS holder would apply to a CQE. CQEs,

however, would be subject to additional regulatory requirements beyond those applying to existing QS holders.

A CQE could represent more than one eligible community. However, no community could be represented by more than one CQE. This provision would minimize confusion and ensure effective and efficient administration of the program.

During Council deliberations, a new non-profit entity was selected as the appropriate QS holder for these communities based on recommendations from GOA communities. These recommendations indicated that a non-profit entity could be more flexible and cost-effective than either a for-profit corporation or an existing governmental body. To be considered eligible to hold QS on behalf of a community, a CQE would be required to be incorporated after April 10, 2002, the date of final Council action.

The Council stated that the purpose of designating a new non-profit entity to hold QS is that existing administrative structures such as municipal governments, tribal councils, or other community organizations may be focused on other priorities. The Council considered that a new non-profit entity may be better suited to represent an entire community with the express purpose of purchasing and managing QS. Additionally, the EA/RIR/IRFA noted that a number of communities considered as eligible for this program are unincorporated, do not have local tribal governments, or other community organizations, and therefore lack an existing governmental body that could manage the QS.

The Council also recommended that a non-profit organization provide proof of support from the community that it is seeking to represent. This support must be demonstrated in the application by a non-profit organization to become eligible as a CQE. The specific mechanism for the community to demonstrate its support for a CQE is described in the Administrative Oversight section of the preamble.

Once an application to become a CQE has been approved, then that CQE would be eligible to hold and receive QS, and lease IFQ to eligible community residents under the mechanisms established by this proposed rule. If a CQE does not remain in compliance, (e.g., by failing to submit a complete annual report), then NMFS could initiate administrative proceedings to deny the transfer of QS or IFQ to or from the CQE. As with other administrative determinations under the IFQ Program, any such determination could be

appealed under the procedures set forth in regulations (50 CFR 679.43). The Council recommended regulatory measures, described below, as a means to monitor the ability of the non-profit entities to meet the goals of distributing IFQ among residents in these GOA communities.

## 2. Eligible Communities

Communities eligible to participate in this program would need to meet all the following criteria: (a) have a population of less than 1,500 persons based on the 2000 United States Census; (b) have direct saltwater access; (c) lack direct road access to communities with a population greater than 1,500 persons; (d) have historic participation in the halibut and sablefish fisheries; and (e) be specifically designated on a list adopted by the Council and included in this proposed rule (see Table 21 to Part 679).

If a community appears to meet the eligibility criteria but is not specifically designated on the list of communities adopted by the Council, then that community would have to apply directly to the Council to be included. In this event, the Council may modify the list of eligible communities adopted by the Council through a regulatory amendment. Under the criteria established in this proposed rule, a total of 42 communities in the GOA would qualify as eligible to purchase QS. These eligible communities may designate a new non-profit entity to hold QS on behalf of that community.

The specific criteria for community eligibility were developed through Council deliberations. Generally, the Council chose criteria that were intended to define a set of communities that have experienced a similar decline in their participation in the halibut and sablefish IFQ fisheries. Analysis in the EA/RIR/IRFA indicates that all but 2 of the 42 communities designated in Table 21 to part 679 have experienced a net loss in QS held by residents of those communities since initial allocation.

### (a) Population of Less than 1,500 persons

The Council considered a range of population criteria and chose to limit eligibility to communities less than 1,500 persons based on an analysis of QS distribution. This analysis indicated that several communities larger than 1,500, specifically Wrangell and Cordova, did not have the same decline in participation in the halibut and sablefish fisheries as the communities that this action proposes to address. The 2000 United States Census was chosen as the standard for measuring total

population. This standard would be used to determine eligibility for community participation in this program because it is considered to be a more accurate measure of population than annual estimates conducted by the State. Additionally, at the time that final action to modify the IFQ Program was taken by the Council to accommodate communities, the 2000 Census was the best available demographic data.

This proposed rule establishes that a community with not less than 20 persons and not more than 1,500 persons that is defined as a Census Designated Place under the U.S. Census fulfills the requirement for the definition of a community for the purposes of this program. If communities seek inclusion as an eligible community in the future, then NMFS would review those communities using the definitions of a community as defined by this proposed rule.

The reason for using a minimum of a 20-person standard, is that two communities specifically designated by the Council for eligibility for this program have populations slightly higher than 20 persons. Specifically, Meyers Chuck and Ivanof Bay have populations of 21 and 22 persons, respectively. If a higher minimum population standard were used, neither of these communities would be eligible to participate in this program. Excluding these two communities that have experienced a loss of QS since the implementation of the IFQ program would undermine the intent of this action, which is to provide an additional opportunity for residents of those communities to receive access to halibut and sablefish resources.

The limitation on minimum population size would reduce the potential for future petitions for inclusion into the program by a small group of individuals living in a place solely for the purpose of participating in this program. Additionally, there are a number of communities that are no longer populated that could be qualified under the historic participation criteria. The Council did not intend this program to provide an opportunity for communities which do not exist to receive the ability to form non-profit entities and purchase QS. The limitation on population size would prevent this possibility and also reflects existing definitions of a community as established by the State of Alaska for purposes of revenue sharing agreements. The State defines a community as a group of not less than 25 people living in a geographic location as a social unit. Without a minimum population standard established in this proposed

rule, the goals of the Council and this action to provide additional opportunities for coastal residents in established communities is undermined. All of the communities designated by the Council on the list of eligible communities meet these requirements based on the analysis of these eligibility criteria in the EA/RIR/IRFA prepared for this proposed rule.

### (b) Have Direct Saltwater Access

A community would be defined as adjacent to saltwater if it is located on the GOA coast of the North Pacific Ocean.

### (c) Lack of Direct Road Access

The Council recommended limiting eligibility to communities without direct road access to communities larger than 1,500 persons because such communities may lack access to markets for fishery products and could be disadvantaged relative to other communities with better transportation infrastructure. Communities that do have road access to larger communities would be expected to have access to larger markets, better access to capital, and are not likely to face the same economic conditions that this program is trying to address by providing additional harvest opportunities for community residents.

### (d) Have Historic Participation in the Halibut and Sablefish Fisheries

Historic participation would be defined as communities for which a resident has recorded a commercial landing of either halibut or sablefish between 1980–2000 according to Commercial Fisheries Entry Commission (CFEC) data for permit and fishing activity. This definition would provide a means for the Council to consider those communities for which halibut or sablefish has some historic commercial importance. A broad range of years was chosen to accommodate the shifting patterns of halibut and sablefish harvests within these communities over the past twenty years. The year 1980 was chosen because it represents the first year of widely collected and reliable data from the CFEC, and the year 2000 was chosen because it was the last year of data available prior to the Council's decision to recommend this program.

### (e) Be Specifically Designated on a List Adopted by the Council

The Council adopted a specific list of eligible communities to limit the entry of new communities into the Community QS Program (see Table 21 to Part 679). The Council expressed a

desire to review the addition of any communities not listed. Council review is ensured by listing eligible communities in the regulations. Any change to the list of eligible communities would first require Council action to recommend such a change. The Council desired this review to ensure that communities that were not originally considered under this proposed rule provide adequate

evidence of their eligibility to participate in this program. This review would reduce potential disruption in administration of the Community QS Program due to a sudden and unanticipated increase in competition for QS among eligible communities. This Council review also would provide an additional public review process before modifying the Community QS Program.

### 3. Use Caps for Individual Communities

Each eligible community as represented by a CQE would be subject to the same use limitations on QS and IFQ currently established for QS holders as described under 50 CFR 679.42(e) for sablefish and 50 CFR 679.42(f) for halibut. Therefore, for each community it represents, a CQE would be limited to using:

|  |   |
|--|---|
| No more than: 599,799 units of halibut QS .....            | in IFQ regulatory area 2C.  |
| No more than: 1,502,823 units of halibut QS combined ..... | in IFQ regulatory areas 2C, 3A, and 3B.   |
| No more than: 688,485 sablefish QS units .....             | in the IFQ regulatory Area East of 140° W. long. (Southeast Outside District).                                  |
|  | in the Southeast Outside District West Yakutat, Central Gulf Regulatory Area, and Western Gulf Regulatory Area. |
| No more than 3,229,721 sablefish QS units combined .....   |   |

A CQE representing an eligible community located within Areas 3A or 3B would be prohibited from purchasing QS in Area 2C (Southeast Alaska) on behalf of that community. The Council recommended this provision because 21 of the 42 eligible communities are located in Area 2C. Allowing additional CQEs representing communities located in Areas 3A and 3B to purchase QS in Area 2C would increase competition, and possibly result in higher QS prices, for 2C communities. This increased competition could affect both prospective community QS buyers and new individual entrants to the fishery.

Likewise, a CQE representing an eligible community within Area 2C would be prohibited from purchasing and using QS in Area 3B (Western GOA) on behalf of that community. The Council recommended this limitation because residents from communities located in Area 2C traditionally did not fish in Area 3B, and one of the principal goals of the community QS program is to improve the access of residents of the eligible communities to local resources.

Although the Council recommended limiting the use of halibut QS to those areas that are adjacent to the eligible communities, a similar provision was not recommended for sablefish. The sablefish fishery occurs in deeper waters than much of the halibut fishery and typically requires larger vessels that can travel longer distances for harvesting fish.

As noted above, the Council recommended limiting QS holdings by CQEs on behalf of communities to the levels established in the current IFQ program. The Council noted that this limit would provide an adequate opportunity for communities to purchase and hold sufficient QS for leasing the resulting IFQ among

community residents. This level was considered not to be so restrictive as to discourage communities from purchasing and holding quota. The Council also considered the potential effects on existing QS holders in recommending use caps for individual communities. The use caps accommodate existing QS holders who are concerned that shifting potential QS holdings to communities could disadvantage individual fishermen by reducing the amount of QS available to them in the QS market.

### 4. Cumulative Use Caps for All Communities

Communities represented by CQEs cumulatively would be limited to holding a maximum of 3 percent of the total halibut and sablefish QS in each area in the first year after implementation of this program. In each subsequent year, the percentage would be increased by an additional 3 percent until, after 7 years, a maximum of 21 percent of the total halibut and sablefish QS could be held in each area in which CQEs are eligible to hold QS.

The Council recommended limiting cumulative community ownership of QS in each area as an additional measure to reduce the potential increase in QS price that could result if CQEs sought to purchase QS up to their respective communities' use cap(s) in each area. The Council recommended this step-up cumulative use cap to balance potential QS market competition between communities and individuals, and to accommodate the desire of GOA community representatives to have adequate access to QS as CQEs enter the program on behalf of eligible communities.

### 5. Transfer and Use Restrictions

#### (a) Block Limits

The purchase of blocked QS by CQEs would be restricted. During Council deliberations, numerous industry representatives and fishermen indicated that allowing unrestricted purchasing of QS could disadvantage new entrants, particularly those individuals in the market for "blocked QS." Blocked QS are aggregates of small units of QS that were designated as blocks when they were initially issued and that cannot be subdivided upon transfer. The number of blocks that may be held by a person is limited under the IFQ Program. These limits were established to limit the consolidation of blocked QS and to ensure that smaller aggregate units would be available on the market. Blocked QS typically is less expensive and more attractive to new-entrants.

This proposed rule would modify the consolidation limits for blocked QS for communities represented by CQEs. The Council is recommending this change to provide additional opportunities for CQEs (on behalf of the communities they represent) to access the typically less expensive blocked QS. The Council also considered the potential effects on new entrants by allowing each community represented by a CQE to hold more QS blocks than can other types of QS holders. Each community represented by a CQEs would be limited to holding, at any point in time, a maximum of 10 blocks of halibut QS and 5 blocks of sablefish QS in each IFQ regulatory area for halibut and sablefish. The CQE could not subdivide blocked QS.

Existing regulations at 50 CFR 679.42(g) limit QS holders to a maximum of two blocks for either species in any area if a person holds only blocked QS, and no more than one

block for a species in an area if a person holds any unblocked QS for that species-area combination. Allowing CQEs to hold more blocks than existing QS holders on behalf of their constituent communities would expand the potential QS market available to these communities. The Council recommended this provision because in most areas of the GOA large portions of the QS are available only in blocked

shares. Limiting communities to existing unblocked QS would effectively limit the QS available to communities to a small portion of the total QS that is typically higher priced than the more available blocked QS. The proposed limits would provide additional opportunities for eligible communities represented by CQEs to purchase QS beyond those that constrain current QS holders. In recommending this

modification to the existing regulations, the Council balanced the objectives of this new program with concerns about protecting the interests of individual new entrants to the fishery.

To accommodate the interests of prospective new entrants, the Council recommended prohibiting CQEs from purchasing:

|  |                                     |
|--|-------------------------------------|
| Halibut QS blocks less than or equal to 19,992 units. ....<br>(e.g., 2,850 lb (1,292.8 kg) of IFQ in 2003) .....   | in Area 2C.                         |
| Halibut QS blocks 27,912 units. ....<br>(e.g., 3,416 lb (1,549.5 kg) of IFQ in 2003). ....                         | in Area 3A.                         |
| Sablefish QS blocks less than or equal to 33,270 units. ....<br>(e.g., 4,003 lb (1,815.8 kg) of IFQ in 2003) ..... | in the Southeast Outside District.  |
| Sablefish QS blocks less than or equal to 43,390 units. ....<br>(e.g., 3,638 lb (1,650.2 kg) of IFQ in 2003) ..... | in the West Yakutat District.       |
| Sablefish QS blocks less than or equal to 46,055 units. ....<br>(e.g., 4,684 lb (2,124.7 kg) of IFQ in 2003) ..... | in the Central GOA regulatory area. |
| Sablefish QS blocks less than or equal to 48,410 units. ....<br>(e.g., 6,090 lb (2,762.4 kg) of IFQ in 2003) ..... | in the Western GOA regulatory area. |

These QS limits are specified in 50 CFR 679.41(e) as the "sweep up" limit, or the number of QS units initially issued as blocks that could be combined to form a single block.

The Council recommended that communities not be eligible to purchase or hold these smaller "sweep-up" blocks because these smaller QS blocks typically are purchased by individuals entering the IFQ fisheries. The Council recommended this measure to minimize potentially unfair competition in the QS market between CQEs and individuals for these small QS blocks. The Council did not recommend similar restrictions on QS in the halibut fishery for Area 3B because fewer "sweep-up" blocks exist in Area 3B and few new entrants in Area 3B have sought these "sweep-up" blocks.

#### (b) Transfer and IFQ Leasing

CQEs could only receive and use halibut QS assigned to vessel category B (greater than 60 feet length overall) and vessel category C (greater than 35 feet and less than or equal to 60 feet length overall) in Areas 2C and 3A.

This provision would prohibit CQEs from holding QS assigned to vessel category D (less than or equal to 35 feet (10.7 m) length overall) in Areas 2C and 3A. Category D QS typically is purchased by individuals seeking entry to the halibut IFQ fisheries. The Council recommended this provision to reduce potential competition in the halibut QS market between individuals and CQEs.

The Council did not recommend prohibiting CQEs from holding D category halibut QS in Area 3B. A relatively small amount of D category

QS exists in Area 3B, and traditionally few prospective buyers exist for this category of QS. Existing D category QS holders in Area 3B indicated that allowing CQEs to purchase D category QS in Area 3B would increase the marketability of their QS.

The Council did not recommend catcher vessel category restrictions for CQEs holding sablefish QS. Only B and C vessel categories exist for sablefish QS and sablefish are typically harvested from larger vessels.

So that the annual IFQ derived from the QS held on behalf of a community could be fished, a CQE would lease (i.e., transfer the annual IFQ) to one or more residents of the community, or communities, it represents. Each IFQ lease would be made on annual basis, as is currently the requirement in existing regulations. IFQ so transferred could be fished from a vessel of any size regardless of the QS vessel category from which the IFQ was derived. This provision would apply only while the QS is held by the CQE. The vessel category requirements for use of the QS would apply once again after the QS is transferred from a CQE to a qualified recipient that was not a CQE.

The Council recommended this provision to facilitate the use of the IFQ on the wide range of vessel types that is present in many rural communities. Limiting CQEs to purchase only certain vessel category QS could increase demand and price competition among CQEs and other QS holders, particularly for category C QS because many vessels in the eligible communities tend to be within this size range. Broadening the

use of IFQ from community-held QS could reduce this potential competition.

The amount of IFQ that may be leased annually to an eligible community resident would be limited so that no such lessee could hold IFQ permits authorizing the harvest of more than 50,000 lb (22.7 mt) of halibut and 50,000 lb (22.7 mt) of sablefish IFQ, inclusive of any IFQ derived from any source.

This limitation is intended to ensure a broad distribution of IFQ among community residents and to limit the amount of IFQ that may be leased to those residents who already hold QS or lease IFQ from another source. The Council noted that one of the principal goals of this program was to provide access to halibut and sablefish resources to community residents that do not currently have access to these resources.

Similarly, during any fishing year, no vessel participating in the community QS program could be used to harvest an amount of IFQ greater than 50,000 lb (22.7 mt) of halibut and 50,000 lb (22.7 mt) of sablefish, inclusive of all IFQ fished aboard that vessel. Currently, vessels are limited to 1 percent of the Area 2C IFQ TAC for halibut (e.g., 85,000 net pounds (38 mt) in 2003), or, outside of Area 2C, 0.5 percent of the entire IFQ TAC (e.g., 295,050 net pounds (134 mt) in 2003), and 1 percent of the Southeast IFQ TAC for sablefish (e.g. 78,484 round pounds (36 mt) in 2003), or, outside of Southeast, 1 percent of the entire sablefish TAC (e.g. 348,635 round pounds (158 mt) in 2003).

This limitation on the amount of IFQ that could be fished on any one vessel using community-held QS is intended

to encourage use of a broad distribution of community-held IFQ on vessels that may otherwise have limited or no participation in the IFQ Program.

Eligibility to lease IFQ derived from community-held QS would be limited to permanent residents of the community represented by the CQE. The Council recommended this provision to explicitly tie the potential benefits of QS held by a CQE on behalf of a community to the residents of that community. Such a resident who wishes to lease IFQ would be required to state that he or she maintains a permanent domicile in that specific community and is qualified to receive QS and IFQ by transfer under the existing regulations (i.e., that he or she holds a Transfer Eligibility Certificate issued by NMFS).

Existing regulations at 50 CFR 679.41 require that, for an individual to be eligible to receive QS/IFQ by transfer, such an individual must be a U.S. citizen and must either have received QS upon initial issuance or have 150 days of experience onboard a vessel working as part of the harvesting crew in a U.S. commercial fishery. Upon having demonstrated that he or she has satisfied those requirements, such an individual is issued a Transfer Eligibility Certificate (TEC). These requirements would remain in place for individuals seeking to lease IFQ derived from community QS. Individuals receiving IFQ must meet these qualifications and attest that they are permanently domiciled within that community when receiving IFQ by transfer from a CQE. For purposes of this program, an individual would need to affirm that he or she maintained a domicile in the community from which the IFQ is leased for 12 consecutive months immediately preceding the time when the assertion of residence is made, and had not claimed residency in another community, state, territory, or country.

An individual who receives IFQ derived from QS held by a CQE may not designate a skipper to fish the community IFQ, instead that individual must be onboard the vessel when the IFQ is being fished. The Council recommended this requirement to help ensure that the potential benefits of QS held by communities would be realized by resident fishermen of those communities and not leased outside the communities.

Individuals who hold leases of IFQ from communities would be considered to be IFQ permit holders and would be subject to the regulations that govern other permit holders, including the payment of annual fees as required

under 50 CFR 679.45, unless noted otherwise in this proposed rule.

#### (c) Sale Restrictions

Certain restrictions would apply to the transfer of QS held by a CQE on behalf of a community. A CQE is restricted to sell its QS to generate revenues to improve, sustain, or expand the opportunities for community residents to participate in the IFQ halibut and sablefish fisheries. These restrictions are designed to ensure that the goals of the program are met. NMFS would approve the transfer of QS held by a CQE on behalf of a community only if the community for which the CQE holds the QS authorizes that transfer. This authorization may be in the form of a signature from a authorized representative of the governing body of the eligible community for QS transfers on the Approval of Transfer form. The purpose of this authorization is to ensure that the community is fully aware of the transfer because certain restrictions apply to future transfers if the transfer of QS is for a reason other than to sustain, improve, or expand the program (i.e., the CQE would be prohibited from holding QS on behalf of that community for a period of three years and the CQE must divest itself of all QS held on behalf of that community).

This proposed action would also provide an opportunity for a CQE to transfer QS to dissolve the CQE; or as a result of a court order, operation of law, or as part of a security agreement. These provisions are allowed to account for those cases in which a CQE is no longer capable of representing an eligible community and seeks to divest itself of QS holdings in order to provide an opportunity for another non-profit to form and seek approval as a CQE for a community. Transfers that are required as a result of a court order, operation of law, or as part of a security requirement would be authorized under this proposed action. These forms of transfers are authorized under the existing IFQ program.

During Council deliberations, NMFS indicated that the enforcement and monitoring mechanism for these transfer provisions would be limited. The EA/RIR/IRFA prepared by the Council (see **ADDRESSES**) notes these concerns. Rather than requiring an extensive monitoring and auditing program for each transfer of QS, NMFS would rely on the declaration by the CQE about the purpose of the transfer of any QS held on behalf of a community and the authorization by the governing body of that community to transfer that QS. If subsequent information is made

available to NMFS that confirms that the transfer of QS is made for reasons other than to sustain, improve, or expand the opportunities for community residents, then NMFS would withhold annual IFQ permits on any remaining QS held by the CQE on behalf of that community and would disqualify that CQE from holding QS on behalf of that community for 3 calendar years following the year in which final agency action adopting that determination is made.

NMFS would not impose this restriction until the CQE had received full administrative due process, including notice of the potential action and the opportunity to be heard. An initial administrative determination (IAD) proposing an adverse action would only become final agency action if the CQE failed to appeal the IAD within 60 days, or upon the effective date of the decision issued by the Office of Administrative Appeals. The procedures for appeal are provided at 50 CFR 679.43.

The 3-year restriction was recommended by the Council because the Council did not intend for this program to provide a mechanism for speculating in the QS market or using potential assets to fund other unrelated projects but intended to encourage the long-term participation of fishery dependent communities in the IFQ Program. The public is encouraged to comment specifically on these transfer restrictions, the administrative process that would be established to monitor these requirements, and the enforcement of these restrictions.

#### 6. Joint and Several Liability for Violations

Both the CQE and the individual fisherman to whom the CQE leases its IFQ will be considered jointly and severally liable for any IFQ fishery violation committed while the individual fisherman is in the process of fishing the leased IFQ. This joint and several liability is analogous to the joint and several liability currently imposed on IFQ permit holders and any hired skippers fishing the permit holders' IFQ.

#### 7. Administrative Oversight

Implementing this proposal would require that NMFS: (1) review applications of eligibility for non-profit entities seeking to be qualified as a CQE for a particular community and certify eligible CQEs; and (2) review an annual report detailing the use of QS and IFQ by the CQE and community residents. These reviews ensure that the CQEs are adequately representing the communities and that the program is meeting the goals established by the

Council. If a CQE fails to provide a completed annual report to NMFS for each community that it represents, then that CQE would be deemed ineligible to use the IFQ resulting from that QS on behalf of that community until a complete annual report is received. Before becoming a Final Agency Action, any such determination by NMFS may be appealed through the administrative appeals process described under the IFQ Program (50 CFR 679.43).

Each non-profit entity applying to become a CQE would have to provide NMFS with the following:

- (1) Its articles of incorporation as a non-profit entity under the laws of the State;
- (2) A statement designating the community, or communities, represented by that CQE;
- (3) Management organization;
- (4) A detailed statement describing the procedures that will be used to determine the distribution of IFQ to residents of each community represented by that CQE; and
- (5) A statement of support and accountability of the non-profit entity to that community from a governing body representing each community represented by the CQE.

During Council deliberations, the State noted that it would like to have an opportunity to provide NMFS with comments on applications by non-profit entities seeking to become CQEs. NMFS will provide the State with a copy of the applications. The State will have a period of 30 days to provide comments to NMFS after they are received. NMFS will consider these comments before certifying a non-profit entity as a CQE. This opportunity for comment does not diminish the authority of NMFS to administer these regulations and certify CQEs, but does provide an opportunity for the State to provide comments on the applications. NMFS will review all applications for completeness. Those applications that are not complete would be returned to the applicant for revision. This proposed action does not establish a limit on the amount of time that a non-profit would have to correct deficiencies in an application.

To minimize potential conflicts that may exist among non-profit entities seeking qualification as a CQE, NMFS would not consider a recommendation from a community governing body supporting more than one non-profit entity to hold QS on behalf of that community. The specific community governing body that would be relied on to make a recommendation would recommend a non-profit entity would vary depending on the governance structure of the particular community.

The Council intended that any CQE establish that it is accountable to the community that it would seek to represent. By establishing a requirement that a specific governing body within a community provide a recommendation supporting a CQE, this proposed rule would establish a clear link between the governing body that represents that community and the CQE. Allowing multiple non-profits to apply as CQEs for a singly community would require additional review by NMFS to ensure accountability. Additionally, it would be difficult to establish specific criteria that would establish a clear accountability or lack of accountability. The Council did not intend that this proposed action would serve the interests of a small number of individuals within a given community who may choose to form a corporate entity to narrowly represent their interests. The specific linkage to specific recognized governing bodies within a community minimized the need for additional administrative oversight to ensure accountability to a community and provides a clear nexus between the CQE and the community members it is intended to represent by holding QS on behalf of that community.

*Communities incorporated as municipalities.* For a community that is incorporated as a municipality under State statutes, the City Council would recommend the non-profit entity to serve as the CQE.

*Communities represented by tribal governments.* For those communities that are not incorporated as municipalities but that are represented by a tribal government recognized by the Secretary of the Interior, the tribal governing body would recommend the non-profit entity to serve as the CQE.

*Communities represented by a non-profit association.* For those communities that are not incorporated as a municipality, and that are not represented by a tribal government, the community non-profit association that has an established relationship as the governmental body recognized by the State for purposes of governmental functions would recommend the non-profit entity to serve as the CQE for that community.

*Communities without governing bodies.* Those communities that are not incorporated as a municipality, or represented by a tribal government recognized by the Bureau of Indian Affairs, and that do not have a community non-profit association recognized by the State for purposes of governmental functions, would not be eligible to recommend a non-profit entity to hold QS on its behalf until a

representative governing entity was formed (e.g., the community incorporated as a municipality, was represented by a tribal government recognized by the Bureau of Indian Affairs, or a community non-profit association was formed and recognized by the Alaska Department of Community and Economic Development). NMFS would consult with the State to determine if a community non-profit association is formed, and that it adequately represents the interests of the community before that community non-profit association could recommend a CQE to hold QS on behalf of that community.

This requirement would ensure that any communities that do not have a governmental structure form such a structure prior to being allowed to recommend a specific non-profit entity as a CQE. This requirement is expected to affect only two of the 42 eligible communities recommended by the Council: Halibut Cove and Meyers Chuck. Neither of these communities possess any of the governmental bodies described above. These communities could establish community non-profit associations and have those entities reviewed by the State prior to recommending a CQE. This requirement is determined to be adequate to ensure that any non-profit designated as a CQE for these communities represents the interests of the residents of those communities. The public is encouraged to comment on this particular aspect of this proposed rule.

Establishing that only one CQE to represent the interests in a given community would reduce potential conflicts and reduce administrative burdens. This requirement would not undermine a community's ability to access QS and would ensure that an entity seeking authorization to hold QS on behalf of a community is reviewed by the appropriate governing body within that community before it is certified by NMFS. The definition for "eligible community" is revised by redesignating the existing paragraph as paragraph (1) for purposes of the CDQ Program and by adding a new paragraph (2) for purposes of the IFQ Program.

(a) Annual Report.

NMFS would require each CQE to submit an annual report by January 31 to NMFS and to the governing body for each community represented by the CQE, detailing the use of QS and IFQ by the CQE and community residents during the previous year's fishing season. That annual report would

contain the following information for the preceding fishing season:

- (1) Identification of the eligible community, or communities, represented by the CQE ;
  - (2) Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year;
  - (3) Total amount of halibut and sablefish IFQ leased from the CQE;
  - (4) Names, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ;
  - (5) The name, ADF&G vessel registration number, USCG documentation number, length overall, and home port of each vessel from which the IFQ leased from community owned QS was fished;
  - (6) The names, and business addresses of those individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE.
  - (7) A detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;
  - (8) A description of efforts made to employ crew members who are eligible community residents of the eligible community aboard vessels on which IFQ derived from QS held by a CQE is being fished;
  - (9) A description of the process used to solicit lease applications from eligible community residents of the eligible community on whose behalf the CQE is holding QS;
  - (10) The names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;
  - (11) Any changes in the bylaws of the CQE, board of directors, or other key management personnel;
  - (12) Copies of minutes and other relevant decision making documents from CQE board meetings; and
  - (13) The number of vessels that fished for IFQ derived from QS held by a CQE.
- The purpose of the annual report is to assist NMFS and the Council to assess the performance of the CQEs in meeting the objectives of providing for community-held QS. The Council expressed its intent that the use of community QS would be reviewed 5 years after the effective date of implementing the regulations. The Council may use the annual reports in this review. In particular, the Council wished to evaluate the distribution of IFQ leases within a community, the use of IFQ by local crew members, and the percentage of IFQ resulting from community-held QS that is fished on an

annual basis. This annual report would also be provided to the governing body of each community represented by the CQE. This would assist the governing body and residents of that community in reviewing the activities of the CQE relative to that community.

Submitting the annual report by January 31 would provide NMFS adequate time to review the annual report before issuing annual IFQ to the CQE at the beginning of the IFQ fishing season and would provide an opportunity for NMFS to indicate to the CQE any deficiencies that may exist in the annual report and allow that CQE time to make corrections.

The Council also requested that the communities provide information on the location of landings and other biological data to assess the distribution of landings that occur. These data are routinely reported on the State Fish Ticket and IFQ landing reports and can be summarized by NMFS. CQEs would not be expected to have access to these records. NMFS routinely collects specific information on the transfer of QS as part of transfer applications. Therefore, NMFS can collect several components of the annual report and provide them to the Council and the communities as requested. Specifically, NMFS can provide directly to the Council or any of the CQEs items 1 through 4 and item 13, as described above. The CQEs may wish to incorporate this information in the annual report provided to the Council and the community governing body. This proposed rule does not require that the CQEs collect this information separately.

If a CQE fails to submit a timely and complete annual report, or if other information indicates that the CQE is not adhering to the procedures for distributing or managing QS and IFQ on behalf of a community as established under its application and these regulations, then NMFS would initiate an administrative action to suspend the ability of that CQE to transfer QS and IFQ, and to receive additional QS by transfer. This action would be implemented consistent with the administrative review procedures provided at 50 CFR 679.43. Also, a CQE would be subject to enforcement actions for violating regulations. Because of the significant impacts these restrictions can impose on a community for which the CQE holds QS, communities are encouraged to carefully monitor the actions of a CQE and to provide a mechanism to ensure that the CQE acts in the best interest of that community and fulfills all the requirements established in its application for

eligibility and the regulations for this program.

#### Effect of this Action

Assuming that CQEs are formed and enter the QS market, this action could affect the distribution of halibut and sablefish QS and the associated IFQ throughout the GOA. Specifically, by enabling non-profit entities to hold QS, some QS may shift from existing QS holders to these new eligible non-profit entities. No data exist to predict the source of the QS that would be purchased by CQEs, the amount that would be purchased by CQEs, or the specific fishing activities of those individuals that lease IFQ from the CQEs. Because the potential effects of this proposed rule are unknown, the Council proposed limits on the amount of QS that each community may hold individually and in the aggregate.

This action would not increase the overall harvests of either the halibut or sablefish resource. The amount of halibut and sablefish available for harvest would not be affected by this proposed rule and would remain limited by the annual catch limit established for halibut by the IPHC and the annual TAC for sablefish established by the Council.

Although this action may affect the distribution of harvests within the sablefish and halibut management areas, the potential effect of this redistribution of effort is unknown.

Some effect on the price of QS could be expected. Authorizing new entities to enter the QS market could increase the competition for QS and could result in elevated prices. However, the effect of this potential competition on the market value of QS is unknown.

Nothing in this proposed rule is expected to undermine existing management measures designed to prevent overfishing or increase the bycatch of non-target species. The intent of this proposal is to expand the opportunity for fishermen in remote fishing communities to harvest commercial halibut and sablefish. Any possible effect on local stock abundance would depend on the amount of QS purchased and the actual fishing locations of the IFQ lessees, as compared to the current distribution of fishing effort. No effect on the overall stock abundance would be expected.

#### Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Council and NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact this

proposed rule, if adopted, would have on small entities. The IRFA considered two alternatives. The first alternative is the status quo alternative in which only qualified persons, as defined under current Federal regulations, would be eligible to hold QS. The second alternative would allow eligible communities in the GOA, as defined in this proposed action, to hold halibut and sablefish QS for use by residents of those eligible communities. The second alternative would address concerns noted in the IRFA regarding the lack of initially issued QS and the loss of QS in remote, fishery-dependent GOA communities and thus, address negative impacts sustained by these communities through loss of participation in the IFQ fisheries that would continue under the status quo. This action proposes to implement the second alternative considered in the IRFA.

As of December 31, 2001, the most recent year for which data are available for analysis, NMFS records show 1,534 halibut QS holders in Area 2C, 2,047 QS holders in 3A, and 585 QS holders in Area 3B. Similarly, as of December 31, 2001, NMFS data indicate 486 sablefish QS holders in the Southeast Area, 300 QS holders in the West Yakutat Area, 442 QS holders in the Central Gulf Area, and 177 QS holders in the Western Gulf Area. All of these QS holders could be considered small entities for purposes of the Regulatory Flexibility Act (RFA). The proposed rule could impact the estimated 860 registered commercial halibut buyers participating in the commercial halibut and sablefish IFQ program, many of which are small entities. Also classified as small entities under the RFA are the 42 communities that would qualify as eligible to participate in the IFQ Program as small government jurisdictions with fewer than 50,000 residents.

Analysis of the proposed action indicates no adverse impact on small entities from this action. This action does not reallocate QS away from existing QS holders. The potential adverse effects of this proposed action would be limited to the potential increase in competition which may exist between CQEs, existing QS holders, and new entrants in the QS market. This competition could increase the market price of QS for all persons seeking to purchase QS. No data exist to determine if this potential increase in QS price would occur, or if it would disadvantage existing QS holders or new entrants relative to CQEs.

The ability of CQEs to compete in the QS market is limited by 3 factors: Their access to capital, the amount of QS available on the market, and the

cumulative use cap. The cap limits CQEs to holding a maximum of 3 percent of the total halibut and sablefish QS in each IFQ regulatory area per year, for a total of 21 percent of the total halibut and sablefish QS in each IFQ regulatory area in the GOA. Limiting the amount of QS that communities can purchase each year would mitigate the effects of expanding the universe of potential new participants in the QS market.

This action may have an economic benefit for small entities, to the extent that this action provides additional fishing opportunities to rural fishermen. The benefit is largely due to the redistribution of fishing opportunities, and is primarily a social benefit, not a strictly economic benefit. However, the potential economic benefits of this possibility can not now be measured or estimated.

Net benefits cannot be quantified because of the importance of non-market social costs and benefits in the proposed action. The sale of QS to the CQEs will increase the revenues of some community members who may wish to exit the fishery, or redirect capital into other industries within the larger communities incurring a net loss of QS. To the extent that residents within larger communities currently hold proportionally more quota shares, these residents, and presumably the communities where they live, will benefit from the compensation received by the sale of quota, otherwise they would not voluntarily choose to sell. Although the Council and NMFS do not anticipate that this rule would have a significant impact on a substantial number of small entities, they are unable to state this with certainty and therefore prepared an IRFA.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The following requirement and estimated response time has been approved by OMB under control number 0648-0272: 2 hours for Application for Transfer Eligibility Certificate (TEC).

The following requirements have been submitted to OMB for approval: 200 hours for the Application to Become a CQE; and 40 hours for the CQE annual report; 2 hours for an Application for Transfer of QS or IFQ; 30 minutes for Approval of Transfer of QS from Governing Body; and 10 hours for a community petition for, and State comments on, forming a governing body.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, completing and reviewing the collection of information, and sending the initial application to NMFS to become a CQE, and sending the annual report to NMFS and the community governing body of the community that the CQE represents.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, at the ADDRESSES above, and to the Office of Information and Regulatory Affairs, OMB facsimile or email at the ADDRESSES above.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

There are no duplicative, overlapping, or conflicting Federal rules associated with this proposed rule.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 8, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons discussed in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*, Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U.S.C. 1540(f).

2. In § 679.2, the definition for “Eligible community” is revised and new definitions for “Community quota entity (CQE)” and “Eligible community resident” are added in alphabetical order to read as follows:

**§ 679.2 Definitions.**

\* \* \* \* \*

*Community quota entity (CQE):* (for purposes of the IFQ Program) means a non-profit organization that:

(1) Did not exist prior to April 10, 2002;

(2) Represents at least one eligible community that is listed in Table 21 of this part; and,

(3) Has been approved by the Regional Administrator to obtain by transfer and hold QS, and to lease IFQ resulting from the QS on behalf of an eligible community.

\* \* \* \* \*

*Eligible community* means:

(1) For purposes of the CDQ program, a community that is listed in Table 7 to this part or that meets all of the following requirements:

(i) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the most western of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the GOA coast of the North Pacific Ocean, even if it is within 50 nm of the baseline of the Bering Sea.

(ii) That is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Public Law 92–203) to be a native village.

(iii) Whose residents conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI.

(iv) That has not previously deployed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, unless the community can show that benefits form an approved CDP would be the only way to realize a return from previous investment. The community of Unalaska is excluded under this provision.

(2) For purposes of the IFQ program, a community that is listed in Table 21 to this part, and that:

(i) Is a municipality or census designated place as defined in the 2000 United States Census located on the GOA coast of the North Pacific Ocean;

(ii) Has a population of not less than 20 and not more than 1,500 persons based on the 2000 United States Census;

(iii) Has had a resident of that community with at least one commercial landing of halibut or sablefish made during the period from 1980 through 2000, as documented by the State of Alaska Commercial Fisheries Entry Commission; and

(iv) Is not accessible by road to a community larger than 1,500 persons based on the 2000 United States Census.

\* \* \* \* \*

*Eligible community resident* means, for purposes of the IFQ Program, any individual who:

(1) Is a citizen of the United States;

(2) Has maintained a domicile in a rural community listed in Table 21 to this part for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country; and

(3) is an IFQ crew member.

\* \* \* \* \*

3. In § 679.5, paragraph (l)(8) is added to read as follows:

**§ 679.5 Recordkeeping and reporting (R&R).**

\* \* \* \* \*

(l) \* \* \*

(8) *CQE Annual Report for an Eligible Community.* By January 31, the CQE shall submit a complete annual report on halibut and sablefish IFQ activity for the prior fishing year, for each community represented by the CQE to the Regional Administrator, National Marine Fisheries Service, Post Office Box 21668, Juneau, AK 99802, and to the governing body of those communities identified in Table 21 to this part.

(i) A complete annual report contains the following information:

(A) Name, ADF&G vessel registration number, USCG documentation number, length overall, and home port of each vessel from which the IFQ leased from QS held by a CQE was fished;

(B) Name and business addresses of individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE;

(C) Detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;

(D) Description of efforts made to employ crew members who are eligible community residents of the eligible community aboard vessels on which IFQ derived from QS held by a CQE is being fished;

(E) Description of the process used to solicit lease applications from eligible community residents of the eligible community on whose behalf the CQE is holding QS;

(F) Names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;

(G) Any changes in the bylaws of the CQE, board of directors, or other key management personnel;

(H) Copies of minutes and other relevant decision making documents from CQE board meetings.

(ii) Additional information may be submitted as part of the annual report based on data available through NMFS. This includes:

(A) Identification of the eligible community, or communities, represented by the CQE;

(B) Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year;

(C) Total amount of halibut and sablefish IFQ leased from the CQE;

(D) Names, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ;

(E) Number of vessels that fished for IFQ derived from QS held by a CQE.

\* \* \* \* \*

4. In § 679.7, paragraphs (f)(16) and (f)(17) are added to read as follows:

**§ 679.7 Prohibitions.**

\* \* \* \* \*

(f) \* \* \*

(16) Hire a master to fish for IFQ halibut or IFQ sablefish that is derived from QS held by a CQE.

(17) Process IFQ halibut or IFQ sablefish onboard a vessel on which a person is using IFQ derived from QS held by a CQE.

\* \* \* \* \*

5. In § 679.41, paragraphs (d)(1) and (g)(1) are revised, and paragraphs (c)(10), (e)(4), (e)(5), (g)(5) through (g)(8), and (l) are added to read as follows:

**§ 679.41 Transfer of quota shares and IFQ.**

\* \* \* \* \*

(c) \* \* \*

(10) If the person applying to transfer or receive QS or IFQ is a CQE, the following determinations are required for each eligible community represented by that CQE:

(i) An individual applying to receive IFQ from QS held by a CQE is an eligible community resident of the eligible community in whose name the CQE is holding QS;

(ii) The CQE applying to receive or transfer QS, has submitted a complete annual report(s) required by 679.5 (l)(8) of this section;

(iii) The CQE applying to transfer QS has provided information on the reasons for the transfer as described in paragraph (g)(7) of this section;

(iv) The CQE applying to receive QS is eligible to hold QS on behalf of the eligible community in the halibut or sablefish regulatory area designated for that eligible community in Table 21 to this part; and

(v) The CQE applying to receive QS has received notification of approval of eligibility to receive QS/IFQ for that community as described in paragraph (d)(1) of this section.

*(d) Eligibility to receive QS or IFQ by transfer—(1) Application for Eligibility.*

All persons applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility), containing accurate information, to the Regional Administrator, except that an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) is not required if a complete application to become a CQE, as described in paragraph (l)(3) of this section, has been approved by the Regional Administrator on behalf of an eligible community. The Regional Administrator shall provide an Application for Eligibility form to any person on request.

\* \* \* \* \*

*(e) \* \* \**

(4) A CQE may not purchase or use sablefish QS blocks less than or equal to the number of QS units specified in (e)(2)(i) through (e)(2)(iv) of this section.

(5) A CQE may not purchase or use halibut QS blocks less than or equal to the number of QS units specified in (e)(3)(i) and (e)(3)(ii) of this section.

\* \* \* \* \*

*(g) \* \* \**

(1) Except as provided in paragraph (f), paragraph (g)(2), or paragraph (l) of this section, only persons who are IFQ crew members, or who were initially issued QS assigned to vessel categories B, C, or D, and meet the eligibility requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

\* \* \* \* \*

(5) A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D.

(6) Except as provided by paragraph (f) of this section, QS held by a CQE on behalf of an eligible community may be used only by an eligible community resident of that eligible community.

*(7) A CQE may transfer QS:*

(i) To generate revenues to provide funds to meet administrative costs for managing the community QS holdings;

(ii) To generate revenue to improve the ability of residents within the community to participate in the halibut and sablefish IFQ fisheries;

(iii) To generate revenue to purchase QS for use by community residents;

(iv) To dissolve the CQE; or

(v) As a result of a court order, operation of law, or as part of a security agreement.

(8) If the Regional Administrator determines that a CQE transferred QS for purposes other than those specified in paragraph (g)(7) of this section, then:

(i) The CQE must divest itself of any remaining QS holdings and will not be eligible to receive QS by transfer for a period of three years after the date of the Regional Administrator's determination; and

(ii) The Regional Administrator will not approve a CQE to represent the eligible community in whose name the CQE transferred quota for a period of three years after the date of the Regional Administrator's determination.

\* \* \* \* \*

*(l) Transfer of QS to CQEs.—(1) Each eligible community must designate a CQE to transfer and hold QS on behalf of that community.*

(2) Each eligible community may designate only one CQE to hold QS on behalf of that community at any one time.

(3) Prior to initially receiving QS by transfer on behalf of a specific eligible community, a non-profit entity that intends to represent that eligible community as a CQE must submit a complete application to become a CQE to the Regional Administrator, National Marine Fisheries Service, Post Office Box 21668, Juneau, AK 99802. The Regional Administrator, will provide a copy to the Alaska Department of Community and Economic Development, Commissioner, P.O. Box 110809, Juneau, AK 99811-0809. Comments by the State of Alaska on an application to become a CQE must be submitted to the NMFS, P.O. Box 21668, Juneau, AK 99802 within 30 days of the application being received by the State. NMFS will consider comments received by the Alaska Department of Community and Economic Development, when reviewing applications for a non-profit entity to become a CQE. A complete application to become a CQE consists of:

(i) The articles of incorporation for that non-profit entity in the State of Alaska;

(ii) A statement designating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS;

(iii) Management organization information, including:

(A) The bylaws of the non-profit entity;

(B) A list of key personnel of the managing organization including but

not limited to: the board of directors, officers, representatives, and any managers;

(C) A description of the organizational management structure of the non-profit including resumes of management personnel, including the name, address, fax number, telephone, email, and any other contact information for the non-profit entity;

(D) A description of how the non-profit entity is qualified to manage QS on behalf of the eligible community, or communities, it is designated to represent, and a demonstration that the non-profit entity has the management, technical expertise, and ability to manage QS and IFQ; and

(E) The name of the non-profit organization, taxpayer ID number, NMFS person number, permanent business mailing addresses, name of contact persons and additional contact information of the managing personnel for the non-profit entity, name of community represented by the CQE, name of contact for the governing body of the community represented, date, name and notarized signature of applicant, Notary Public signature and date when commission expires.

(iv) A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community represented by that CQE, including:

(A) Procedures used to solicit requests from residents to lease IFQ; and

(B) Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria;

(v) A statement of support from the governing body of the eligible community as that governing body is identified in Table 21 to this part. That statement of support is:

(A) A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;

(B) A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior;

(C) A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated as first or second class cities in the State of Alaska, and is not represented by a tribal government authority recognized

by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

(1) Have articles of incorporation as a non-profit community association, homeowner association, community council, or other non-profit entity;

(2) Have an established relationship with the State of Alaska Department of Community and Economic Development for purposes of representing that community for governmental functions.

(D) If an eligible community is not incorporated as a first or second class city in the State of Alaska, is not represented by a tribal government authority recognized by the Secretary of the Interior, and does not have a non-profit community association, homeowner association, community council, or other non-profit entity within that community with an established relationship with the Alaska Department of Community and Economic Development for purposes of representing that community for purposes of governmental functions, then NMFS will not consider any statement from a non-profit entity representing that community until that community:

(1) Is incorporated as a first or second class city in the State of Alaska;

(2) Establishes a tribal government authority recognized by the Secretary of the Interior; or

(3) Establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community that meets the requirements established in paragraph (l)(3)(v)(E) of this section.

(E) If a community described under paragraph (l)(3)(v)(D) of this section establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community, then NMFS will consider any recommendations from this entity to support a particular applicant after reviewing:

(1) Petitions from residents affirming that the non-profit community association, homeowner association, community council, or other non-profit entity within that community represents the residents within that community; and

(2) Comments from the State of Alaska Department of Community and Economic Development on the articles of incorporation for that non-profit entity and the ability of that non-profit entity to adequately represent the interests of that community for purposes of governmental functions.

(3) The governing body of an eligible community as that governing body is identified in Table 21 to this part, must provide authorization for any transfer of QS by the CQE that holds QS on behalf of that eligible community prior to that transfer of QS being approved by NMFS. This authorization must be submitted as part of the Application for Transfer. That authorization consists of a signature on the Application for Transfer by a representative of the governing body that has been designated by that governing body to provide such authorization to approve the transfer of QS.

6. In § 679.42, paragraphs (a), (f), (g)(1), and (h) are revised, and paragraphs (e)(3) through (e)(8), and (i)(4) are added to read as follows:

**§ 679.42 Limitations on use of QS and IFQ.**

(a) *IFQ regulatory area and vessel category.* (1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area.

(2) The QS or IFQ assigned to one vessel category must not be used to harvest IFQ species on a vessel of a different vessel category, except:

(i) As provided in paragraph (k) of this section (processing fish other than IFQ halibut and IFQ sablefish);

(ii) As provided in § 679.41(i)(1) of this part (CDQ compensation QS exemption);

(iii) IFQ derived from QS held by a CQE may be used to harvest IFQ species from a vessel of any length.

(3) Notwithstanding § 679.40(a)(5)(ii) of this part, IFQ assigned to vessel Category B must not be used on any vessel less than or equal to 60 ft (18.3 m) LOA to harvest IFQ halibut in IFQ regulatory area 2C or IFQ sablefish in the regulatory area east of 140 degrees W. long. unless such IFQ derives from blocked QS units that result in IFQ of less than 5,000 lb (2.3 mt), based on the 1996 TAC for fixed gear specified for the IFQ halibut fishery and the IFQ sablefish fishery in each of these two regulatory areas.

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

(3) No CQE may hold sablefish QS in the IFQ regulatory areas of the Bering Sea subarea and the Aleutian Islands subareas.

(4) No CQE may hold more than 3,229,721 units of sablefish QS on behalf of any single eligible community.

(5) In the IFQ regulatory area east of 140 degrees W. long., no CQE may hold more than 688,485 units of sablefish QS for this area on behalf of any single eligible community.

(6) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in § 679.41(e)(2)(i) through (e)(2)(iv) of this part for sablefish in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all CQEs shall increase by an additional 3 percent in each IFQ regulatory area specified in § 679.41(e)(2)(i) through (e)(2)(iv) of this part up to a maximum limit of 21 percent of the total QS in each regulatory area specified in Section 679.41(e)(2)(i) through (e)(2)(iv) of this part for sablefish.

(7) No individual that receives IFQ derived from sablefish QS held by a CQE may hold, individually or collectively, more than 50,000 pounds (22.7 mt) of IFQ sablefish derived from any sablefish QS source.

(8) A CQE receiving category B, or C sablefish QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community on whose behalf the QS is held.

(f) *Halibut QS use.* (1) Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person, individually or collectively, may use more than:

(i) *IFQ Regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(iii) *IFQ regulatory area 4A, 4B, 4C, 4D, and 4E.* 495,044 units of halibut QS.

(2) No CQE may receive an amount of halibut QS on behalf of any single eligible community which is more than:

(i) *IFQ Regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(3) No CQE may hold halibut QS in the IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E.

(4) A CQE representing an eligible community may receive by transfer or use QS only in the IFQ regulatory areas designated for that species and for that eligible community as described in Table 21 to this part.

(5) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in § 679.41(e)(3)(i) through (e)(3)(iii) of this part for halibut in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all community quota entities shall increase by an additional 3 percent in each IFQ regulatory area specified in § 679.41(e)(3)(i) through (e)(3)(iii) of this

part. This limit shall increase up to a maximum limit of 21 percent of the total QS in each regulatory area specified in § 679.41(e)(3)(i) through (e)(3)(iii) to this part for halibut.

(6) No individual that receives IFQ derived from halibut QS held by a CQE may hold, individually or collectively, more than 50,000 pounds (22.7 mt) of IFQ halibut derived from any halibut QS source.

(7) A CQE receiving category B, or C halibut QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community represented by the CQE.

(g) \* \* \*

(1) *Number of blocks per species.*

Except as provided in paragraphs (g)(1)(i) and (g)(1)(ii) of this section, no person, individually or collectively, may hold more than two blocks of each species in any IFQ regulatory area.

(i) A person, individually or collectively, who holds unblocked QS for a species in an IFQ regulatory area, may hold only one QS block for that species in that regulatory area; and

(ii) A CQE may hold no more than ten blocks of halibut QS in any IFQ

regulatory area and no more than five blocks of sablefish QS in any IFQ regulatory area on behalf of any eligible community.

\* \* \* \* \*

(h) *Vessel limitations.* (1) *Halibut.* No vessel may be used, during any fishing year, to harvest more than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, except that:

(i) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 pounds (22.7 mt) of IFQ halibut from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.

(2) *Sablefish.* No vessel may be used, during any fishing year, to harvest more than one percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas, except that:

(i) In the IFQ regulatory area east of 140 degrees W. long., no vessel may be used to harvest more than 1 percent of

the fixed gear TAC of sablefish for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 pounds (22.7 mt) of IFQ sablefish from any sablefish QS source if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.

(3) A person who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all of that IFQ with a single vessel, except that this provision does not apply if that IFQ allocation includes IFQ derived from QS held by a CQE. However, two or more persons may not catch and retain their IFQ in excess of these limitations.

\* \* \* \* \*

(i) \* \* \*

\* \* \* \* \*

(4) IFQ derived from QS held by a CQE must be used only by the individual whose IFQ permit account contains the resulting IFQ.

7. In 50 CFR part 679, Table 21 is added to read as follows:

TABLE 21 TO PART 679—ELIGIBLE GOA COMMUNITIES, HALIBUT IFQ REGULATORY USE AREAS, AND COMMUNITY GOVERNING BODY THAT RECOMMENDS THE COMMUNITY QUOTA ENTITY

| Eligible GOA Community   | Community Governing Body that recommends the CQE |
|--|--|
| May use halibut QS only in halibut IFQ regulatory areas 2C, 3A |  |
| Angoon .....   | City of Angoon.                                  |
| Coffman Cove .....   | City of Coffman Cove.                            |
| Craig .....  | City of Craig.                                   |
| Edna Bay .....   | Edna Bay Community Association.                  |
| Elfin Cove .....   | Community of Elfin Cove.                         |
| Gustavus .....   | Gustavus Community Association.                  |
| Hollis .....   | Hollis Community Council.                        |
| Hoonah .....   | City of Hoonah.                                  |
| Hydaburg .....   | City of Hydaburg.                                |
| Kake .....   | City of Kake.                                    |
| Kasaan .....   | City of Kasaan.                                  |
| Klawock .....  | City of Klawock.                                 |
| Metlakatla .....   | Metlakatla Indian Village.                       |
| Meyers Chuck .....   | N/A.   |
| Pelican .....  | City of Pelican.                                 |
| Point Baker .....  | Point Baker Community.                           |
| Port Alexander .....   | City of Port Alexander.                          |
| Port Protection .....  | Port Protection Community Association.           |
| Tenakee Springs .....  | City of Tenakee Springs.                         |
| Thorne Bay .....   | City of Thorne Bay.                              |
| Whale Pass .....   | Whale Pass Community Association.                |
| May use halibut QS only in halibut IFQ regulatory areas 3A, 3B |  |
| Akhiok .....   | City of Akhiok.                                  |
| Chenega Bay .....  | Chenega IRA Village.                             |
| Chignik .....  | City of Chignik.                                 |
| Chignik Lagoon .....   | Chignik Lagoon Village Council.                  |
| Chignik Lake .....   | Chignik Lake Traditional Council.                |
| Halibut Cove .....   | N/A.   |
| Ivanof Bay .....   | Ivanof Bay Village Council.                      |
| Karluk .....   | Native Village of Karluk.                        |
| King Cove .....  | City of King Cove.                               |
| Larsen Bay .....   | City of Larsen Bay.                              |

TABLE 21 TO PART 679—ELIGIBLE GOA COMMUNITIES, HALIBUT IFQ REGULATORY USE AREAS, AND COMMUNITY GOVERNING BODY THAT RECOMMENDS THE COMMUNITY QUOTA ENTITY—Continued

| Eligible GOA Community   | Community Governing Body that recommends the CQE |
|--|--|
| May use halibut QS only in halibut IFQ regulatory areas 3A, 3B |  |
| Nanwalek .....   | Nanwalek IRA Council.                            |
| Old Harbor .....   | City of Old Harbor.                              |
| Ouzinkie .....   | City of Ouzinkie.                                |
| Perryville .....   | Native Village of Perryville.                    |
| Port Graham .....  | Port Graham Village Council.                     |
| Port Lyons .....   | City of Port Lyons.                              |
| Sand Point .....   | City of Sand Point.                              |
| Seldovia .....   | City of Seldovia.                                |
| Tatitlek .....   | Native Village of Tatitlek.                      |
| Tyonek .....   | Native Village of Tyonek.                        |
| Yakutat .....  | City of Yakutat.                                 |

[FR Doc. 03-26074 Filed 10-15-03; 8:45 am]

BILLING CODE 3510-22-S